

SOLICITATION, OFFER, AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	
2. CONTRACT NUMBER		3. SOLICITATION NUMBER SAQMMA09R0189		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	
				5. DATE ISSUED 08/08/2009	
6. REQUISITION/PURCHASE NUMBER					
7. ISSUED BY OFFICE OF ACQUISITION MANAGEMENT (A/LM/AQM) PO BOX 9115, ROSSLYN STATION US DEPARTMENT OF STATE ARLINGTON, VA 22219				CODE: LMAQM	
				8. ADDRESS OFFER TO (If other than Item 7)	

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and ____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8, or if handcarried, in the depository located in ____ until ____ local time ____

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION E-MAIL:	A. NAME Frederick Washington	B. TELEPHONE (NO COLLECT CALLS) 703-875-4985	C. E-MAIL ADDRESS washingtonfj@state.gov

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OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)	10 CALENDER DAYS(%) 0.00 %	20 CALENDER DAYS(%) 0.00 %	30 CALENDER DAYS(%) 0.00 %	0 CALENDER DAYS(%) 0.00 %
14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CONTACT:	DUNS:	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or Print)
15B. TELEPHONE NUMBER	<input type="checkbox"/> 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.		17. SIGNATURE
			18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 41 U.S.C. 253(c) ()		23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)
24. ADMINISTERED BY (if other than Item 7) CODE:		25. PAYMENT WILL BE MADE BY GLOBAL FIN. SVCS (RM/GFS/ADO/FM) CHARLESTON, SOUTH CAROLINA PO BOX 150008; Fax To: 1-866-483-3436 OFFICE OF CLAIMS (RM/GFS/F/C) CHARLESTON, SC 29415-5008
26. NAME OF CONTRACTING OFFICER (Type or print) Frederick Washington		27. UNITED STATES OF AMERICA (Signature of Contracting Officer)
		28. DATE 08/08/2009

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

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Line Item Summary	Solicitation Number: SAQMMA09R0189	Contract Number:	Title: FOIA		Date of Solicitation: 08/08/2009
Line Item No.	Description	Quantity	Unit	Unit Price	Total Cost
001	Doc Ref No: Delivery Date	0.00	HR		
	FOB:				

B.1 Services and Prices

B.1.1 MINIMUM AND MAXIMUM CONTRACT AMOUNTS--INDEFINITE QUANTITY CONTRACT (05/95)

(a) Per FAR 52.216-22 "INDEFINITE QUANTITY," the minimum for this indefinite quantity contract shall be any quantity or combination of supplies and services equal to the amount(s) set forth below. If this contract contains options, the minimum for each option shall apply separately and independently to that option.

Base	\$5,000.00
Option 1	\$5,000.00
Option 2	\$5,000.00
Option 3	\$5,000.00
Option 4	\$5,000.00

(b) The maximum for this indefinite quantity contract (including options) shall be any quantity or combination of supplies and services equal to \$_____.

B.2 TYPE OF CONTRACT (05/95)

This is a Fixed Price, Indefinite Quantity, Indefinite Delivery, Labor Hour contract. It is anticipated that to the extent practical using Performance Based Service Contract (PBSC) methods, with Incentives and Disincentives will be used.

B.3 DESCRIPTION OF SERVICES

The contractor is responsible for processing FOIA request on the programs, activities and functions of the United States Department of State

B.4 PRICING TABLE

The Price Tables set forth below apply to the base and four option periods of performance for this contract:

BASE PERIOD (for the 12-month period beginning with the award date of the task order) (dates will be entered at time of award). The Base Period shall not exceed 12 calendar months.

BASE YEAR

Offerors are to provide prices for CLIN's 0001 to 0002 in the spaces below:

CLIN		Estimated	Hourly	Total
<u>Number</u>	<u>Labor Category</u>	<u>Hours</u>	<u>Rates</u>	<u>Amounts</u>
0001	Project Manager *	1,920	\$_____	\$_____
0002	Sr. Management Analysts *	15,360	\$_____	\$_____
Total Estimated Amount Base Year				\$_____

* Key Personnel (See Section H)

Option Year One

Offerors are to provide prices for CLIN's 1001 to 1002 in the spaces below:

CLIN		Estimated	Hourly	Total
<u>Number</u>	<u>Labor Category</u>	<u>Hours</u>	<u>Rates</u>	<u>Amounts</u>
1001	Project Manager *	1,920	\$_____	\$_____
1002	Sr. Management Analysts *	15,360	\$_____	\$_____
Total Estimated Amount Option Year One				\$_____

* Key Personnel (See Section H)

Option Year Two

Offerors are to provide prices for CLIN's 2001 to 2002 in the spaces below:

CLIN		Estimated	Hourly	Total
<u>Number</u>	<u>Labor Category</u>	<u>Hours</u>	<u>Rates</u>	<u>Amounts</u>
2001	Project Manager *	1,920	\$_____	\$_____
2002	Sr. Management Analysts *	15,360	\$_____	\$_____
Total Estimated Amount Option Year Two				\$_____

* Key Personnel (See Section H)

Option Year Three

Offerors are to provide prices for CLIN's 3001 to 3002 in the spaces below:

CLIN		Estimated	Hourly	Total
<u>Number</u>	<u>Labor Category</u>	<u>Hours</u>	<u>Rates</u>	<u>Amounts</u>
3001	Project Manager *	1,920	\$_____	\$_____
3002	Sr. Management Analysts *	15,360	\$_____	\$_____
Total Estimated Amount Option Year Three				\$_____

* Key Personnel (See Section H)

Option Year Four

Offerors are to provide prices for CLIN's 4001 to 4002 in the spaces below:

CLIN		Estimated	Hourly	Total
<u>Number</u>	<u>Labor Category</u>	<u>Hours</u>	<u>Rates</u>	<u>Amounts</u>
4001	Project Manager *	1,920	\$_____	\$_____
4002	Sr. Management Analysts *	15,360	\$_____	\$_____
Total Estimated Amount Option Year Four				\$_____

* Key Personnel (See Section H)

B.5 GRAND SUMMARY BASE YEAR AND 4 OPTION YEARS FOR OFFER EVALUATION

B-5. GRAND SUMMARY BASE YEAR AND 4 OPTION YEARS FOR OFFER EVALUATION.

Offerors are to provide prices in the spaces below for the base year, for each of the 4 option years, and the total amount for the base year and 4 option years.

Total amount for base year	\$ _____
Total amount for option year 1	\$ _____
Total amount for option year 2	\$ _____
Total amount for option year 3	\$ _____
Total amount for option year 4	\$ _____
TOTAL BASE YEAR AND 4 OPTION YEARS	\$ _____

B.6 Travel. The contractor shall keep complete and accurate records to support all invoices for travel expenses under this contract.

Travel expenses incurred by the contractor shall be in accordance with the Standard Government Travel Regulations, Joint Travel Regulations, or the Federal Travel Regulation's in effect at the time of each trip, and not exceed the following:

(a) Contractor employees may make one weekend trip at Government expense to home base in accordance with per diem rates in effect at the time of travel, for each three weeks in continuous travel status. This policy applies to Washington, D.C. area contractor employees in the conterminous United States. Delivery Orders shall provide for all authorized weekend trips. Other trips away from a job site for personal reasons shall be during off duty hours.

(b) Cost of air travel by the most direct route. Air Coach and air tourist accommodations constitute the normal class or airfare that shall be utilized. First class airfare shall not be authorized or allowed under this contract.

(c) The contractor shall not be reimbursed for labor-hours utilized while in travel status for travel performed after 5 p.m. Monday through Friday, or any time on Saturdays, Sundays, or holidays including foreign post local holidays.

(d) Travel by motor vehicle including rented automobile shall be reimbursed on a reasonable actual expense basis, or at the contractor's option on a mileage basis at a rate in effect at the time of travel plus any toll and ferry charges.

The above travel expense shall be reimbursed on actual cost basis in accordance with the Federal Travel Regulations, and in all cases the Government official specified in the delivery order shall approve all travel.

THERE IS NO TRAVEL ANTICIPATED FOR THE WORK UNDER THIS CONTRACT.

Section C - Descriptions/Specifications/Statement of Work

C.1 Statement of Work and QASP

C.1.1 The Department of State Bureau of Administration, Office of Information Programs and Services (A/GIS/IPS) is responsible for assuring the Department's compliance with the Freedom of Information and Privacy Acts (FOIA/PA) and other information access provisions. Specifically, A/GIS/IPS processes FOIA/PA requests for information in Department of State records through their full request processing life cycle - from receipt of the request to final response to the requester and through appeal and litigation if necessary. This project will allow IPS to process requests under the FOIA/PA in an efficient and appropriate manner, and achieve tangible, measurable improvements in FOIA/PA processing, as mandated in E.O. 13392 and the OPEN Government Act of 2007. Additionally, this project will allow the Department of State to both process appeals of FOIA requests and respond to FOIA litigation demands. A/GIS/IPS also provides centralized administration and coordination of special document production requests on behalf of the Secretary of State in response to discovery/court orders, Congressional oversight committees, the Government Accountability Office (GAO), special investigatory bodies, and other document production requests as mandated by the Secretary or the President. These contract personnel, integrated with permanent, trained IPS staff, will assist with backlog reduction.

C.2 SCOPE

C.2.1 Under the directions and guidance of the pertinent Branch or Division Chief, provide project management, case processing, research, review, information analysis, appeals processing support, litigation support, and special document production support to the Office of Information Programs and Services, Requester Liaison and Statutory Compliance and Research Divisions.

C.3 STATEMENT OF WORK

C.3.1 The contractor shall provide a Project Manager to perform a variety of duties. Specifically, the task functions are as set forth below:

- (a) Develop work plans and procedures to meet both interim and final goals of the backlog reduction project.
- (b) Maintain data integrity of all transactions, including both in electronic and paper FOIA record keeping systems, through quality assurance audits and surveys.
- (c) Establish and maintain financial controls to ensure the project is completed within budget requirements.
- (d) Develop and implement quality control policies and procedures to ensure output meets customer specifications.
- (e) Manage the multiple tasks within this project.
- (f) Analyze in both an effective and timely manner issues or problems, whether technical, operational or human, affecting progress toward the goals and objectives of the project, and implement appropriate solutions.

- (g) Manage a unique, diverse work force to optimize individual skills and experience.
- (h) Monitor and review contractor personnel time and attendance to ensure adequate coverage at all times.
- (i) Serve as the authorized point of contact with A/GIS/IPS management and be responsible for overall contract performance.

C.3.2 The contractor shall provide 8 Senior Management Analysts to thoroughly process FOIA/PA cases, process FOIA appeals, and support FOIA litigation and special document production activities. Depending upon area of assignment, each Senior Management Analyst will be expected to either acknowledge 40 requests per week, process to closure 140 cases per year, close/stage certain numbers of FOIA appeals as set by the FOIA Program manager, and complete litigation and special document production related activities and products by deadlines set by the FOIA Program Manager, Branch or Division Chiefs, and FOIA Counselor. Specifically, the task functions are set forth below.

- (a) Perform initial analysis to determine validity of request, evaluating for reasonableness and regulatory compliance, scope; fee issues, expedition, and negotiate amicable resolution of disputed matters.
- (b) Within five days of receipt by the analyst, acknowledges the incoming request, ensuring all pertinent issues have been accurately addressed.
- (c) Ensure case files are organized in the standard format, and all electronic data is recorded, accurate, and up-to-date, to ensure compliance with the data integrity provisions of the Office's Standard Operating Procedures.
- (d) Perform initial and subsequent quality control checks as required throughout the case management process.
- (e) Analyze individual FOIA/PA cases to determine the steps needed to process the cases.
- (f) Perform all case management functions to include receipt, research and release functions needed to satisfy the requester's inquiry and move the case to completion.
- (g) Manage a substantial number of cases (i.e., track, process, document) effectively and efficiently to closure.
- (h) Maintain courteous and professional contact with requesters and government personnel in order to complete cases.
- (i) Open FOIA appeals within 3 days of receipt, coordinate tasking to re-review documents or conduct additional searches, stage appeal packages for the Appeals Review Panel. Close FOIA appeals in the automated FOIA case tracking system with all electronic data recorded, accurate, and up-to-date, to ensure compliance with the data integrity provisions of the Office's Standard Operating Procedures.
- (j) Support FOIA litigation activities by assisting with the drafting of declarations, scanning of finished declarations and exhibits, gathering of case processing facts, and updating of the automated FOIA case tracking system all by deadlines set by either the FOIA Litigation Officer, FOIA Program Manager, or FOIA Counselor. These actions are usually very time-sensitive and must be completed accurately.
- (k) Support special document production activities by assisting with the coordination of Department's responses to requests: collecting and organizing documents; drafting routine correspondence; providing oral and written status reports; updating the automated FOIA case tracking system and administrative record of the project; and other related case processing duties as assigned all by deadlines set by either the Team Leader or the Branch Chief. These actions are usually very time-sensitive and must be completed accurately.

C.4 EXPERIENCE/QUALIFICATIONS

C.4.1 The Project Manager furnished by the contractor to perform services required under this Task Order shall possess the following experience and qualifications:

(a) **Education:**

1. Bachelor's degree from an accredited college or university or equivalent.

(b) **Experience:**

1. Demonstrated experience and ability to develop and implement project work plans, schedules and procedures for complex projects with firm budget and time constraints.
2. Demonstrated experience and ability to establish priorities, manage resources, and resolve problems.
3. Demonstrated experience and ability to organize and manage employees to meet established deadlines and achieve specific goals, including quality control standards.
4. Demonstrated ability to communicate orally and in writing with all levels of management, with a diverse workforce, and with customers.
5. A minimum of eight years of specialized management experience in one or more of the following areas: records management and records storage systems; automated information access and retrieval systems; full-text search systems; information protection; or case processing procedures, including appeal and FOIA litigation activities.
6. Project Management Professional (PMP) certification desirable.

C.4.2 The Senior Management analysts furnished by the contractor to perform services required under this Task Order shall possess the following experience and qualifications.

(a) **Education:**

1. Bachelor's degree from an accredited college or university or equivalent.

(b) **Experience:**

1. Experience using Windows XP, Microsoft Office products, and automated information access and retrieval systems.
2. Experience with document and quality control standards, and case processing procedures.
3. At least three years of experience performing case analysis and declassification or FOIA review in a United States Government (USG) agency or FOIA appeal processing or FOIA litigation activities.
4. At least one year of experience performing privacy review in a USG agency.

C.4.3 Due to possible future budget constraints, the Department reserves the right not to backfill vacant

positions and will revise the requirements accordingly.

C.5 Quality Assurance Surveillance Plan (QASP)

1. PURPOSE

This performance-based Quality Assurance Surveillance Plan (QASP) has been developed pursuant to the requirements of the performance-based performance work statement (PWS). This plan sets forth procedures and guidelines that the Department of State will use in evaluating the technical performance of the contractor. This plan is inserted as C.5 of the contract, so that the contractor will be aware of the methods that the Government will employ in evaluating performance on this contract.

2. PURPOSE OF THE QASP

The QASP is intended to accomplish the following:

- Define the roles and responsibilities of participating Government officials;
- Define the types of work to be performed with required end results;
- Describe the evaluation methods that will be employed by the Government in assessing the contractor's performance;
- Provide copies of quality assurance monitoring forms that will be used by the Government in documenting and evaluating the contractor's performance; and
- Describe the process of performance documentation.

3. ROLES AND RESPONSIBILITIES OF PARTICIPATING GOVERNMENT OFFICIALS

The Government Technical Monitor (GTM) will be responsible for monitoring, assessing, recording, and reporting on the technical performance of the contractor on a day-to-day basis. The GTM will have the primary responsibility for completing Quality Assurance Monitoring Forms "which will be used by the GTM to document the inspection and evaluation of the contractor's work performance. It is extremely important for the GTM to establish and maintain a team-oriented line of communication with the contractor's Project Management (PM) and/or privacy subject matter experts in monitoring performance. The GTM, Contracting Officer's Representative (COR), Contracting Officer (CO), and contractor PM must work together as a team to ensure that required work is accomplished in an efficient and proper manner. Bi-weekly meetings will be scheduled by the DoS GTM in order to resolve serious problems. The PII Coordinator will take minutes of these meetings and will distribute them via email to all of the attendees within 24 hours after the conclusion of the meeting. Less serious problems should be discussed and resolved on an impromptu basis.

The Contracting Officer's Representative (COR) monitors technical progress as outlined by the GMT and the expenditure of resources relating to the contract. Upon completion, the COR accepts the work on behalf of the Government.

The Contracting Officer (CO) ensures performance of all necessary actions for effective contracting ensures compliance with the terms of the Task Order and safeguards the interests of the United States in the contractual relationship. It is the Contracting Officer that ensures the contractor receives impartial, fair, and equitable treatment under the Task Order. The

Contracting Officer is ultimately responsible for the final determination of the adequacy of the contractor's performance.

1. METHODOLOGIES TO BE USED TO MONITOR THE CONTRACTOR'S PERFORMANCE

Even though the Government, through its GTM and COR, will be monitoring the contractor's performance on a continuing basis, the volume of tasks performed by the contractor makes technical inspections of every task and step impractical. Accordingly, the Department of State will use a quality-assurance review process to monitor the contractor's performance under this Task Order. The contractor's performance will be evaluated by the GTM in terms of a specific set of products/deliverables and activities, according to three categories; "superior," "acceptable," and "unacceptable." The criteria for each of these performance levels are outlined below. All products produced by or activities performed by the contractor shall meet the level of "acceptable," at a minimum.

"Unacceptable," "acceptable," and "superior" levels of performance shall contribute to the contractor's ability to receive incentive monies for superior performance. As stated in Attachment C to the QASP, there is a performance indicator containing eight requirements. For each requirement performed at an "unacceptable" level, the score shall be reduced. Likewise, the score shall be increased for each "superior" level of performance. Work performed at the "acceptable" level shall neither add to nor reduce the score.

The contractor will be awarded a 1% increase on the annual contract value if the overall majority of items in at least six of the eight of the performance indicator requirements are "superior" and the overall of the other two are at least at the "acceptable" level.

The contractor will be awarded a 2% increase on the annual Task Order value if seven of the eight performance indicator requirements are "superior" and the other one is at least at the "acceptable" level.

The contractor will be awarded a 3% increase on the annual Task Order value if all of the eight performance indicator requirements are rated overall "superior."

The contractor will not receive an incentive award if any of the five performance indicator requirements overall rating is "unacceptable."

The minimum award amount is \$0. The incentive award shall be awarded at the conclusion of the Task Order year.

In general, the work will be evaluated in terms of how well the requirements of the Task Order are satisfied, the extent to which the work performed follows the approach submitted in the contractor's technical proposal, clarity of documentation, and timeliness of scheduled task accomplishment. At the discretion of the GTM or the Contracting Officer, other government officials approved by the Contracting Officer may be asked to evaluate a particular deliverable or set of deliverables.

QUALITY ASSURANCE REPORTING FORMS

The GTM will use one of two quality assurance monitoring forms (Attachments A&B) and/or the Surveillance Activity Checklist (Attachment C) to document and evaluate the contractor's performance under this Task Order.

The GTM will evaluate each event in accordance with the following definitions of contractor performance:

Superior - a level of performance which exceeds the minimum standards of performance;

Acceptable - an acceptable level of performance which meets the minimum standards of performance; or

Unacceptable - a level of performance which is not acceptable and which fails to meet the minimum standards of performance.

DATA COLLECTION QASP

The GTM must substantiate all tasks which are determined to be indicative of “superior” or “unacceptable” performance. Performance at the “acceptable” level is expected from the contractor. Performance at all three levels will be evaluated.

The GTM will forward copies of all completed QA monitoring forms to the COR, CO, and contractor within three business days after the forms are prepared. The contractor is required to respond in writing to any negative QA monitoring form(s) within 5 business days after receipt of the form(s).

ANALYSIS OF SURVEILLANCE RESULTS

The CO will review the QA monitoring forms prepared by the GTM. When appropriate, the CO may investigate the event further to determine if all the facts and circumstances surrounding the event were considered in the GTM opinions outlined on the forms. The CO may discuss with the contractor substantive events receiving a substandard rating to assure that corrective action is promptly initiated.

At the end of every year, the GTM will prepare a written report for the CO summarizing the overall results of the GTM’s surveillance of the contractor’s performance during the previous months. This report will become part of the formal QA documentation.

The products/deliverables or activities that will be used to evaluate contractor performance, and the deductions tied to each, are listed below.

5. METHODS OF QA SURVEILLANCE

The methods of surveillance listed below shall be used in the administration of this QASP. In addition to specific instructions that may be mentioned, the appropriate and standardized formats (Attachments A and B) can be used in addition to the documentation on the Surveillance Activity Checklist, included as Attachment C.

The GTM shall maintain a summary log of all formally received customer complaints, as well as a copy of each complaint in a documentation file. The GTM shall also keep the tabulated results of all customer satisfaction surveys on file and shall enter the summary results into the Surveillance Activity Checklist.

Periodic Inspection - Periodic inspections shall be conducted by the GTM typically on a quarterly basis, or more frequently as needed. The frequency of periodic inspections is at the sole discretion of the GTM.

Random Monitoring - Random monitoring shall be conducted on an impromptu basis by the GTM.

6. IDENTIFIED QA SURVEILLANCE TASKS

The following items are to be monitored under this QASP.

Performance Indicator #1: The contractor shall assist in assuring the Department's compliance with the Freedom of Information and Privacy Acts (FOIA/PA).

Primary Method of Surveillance: Periodic Inspection, random monitoring, and review of logs.

Evaluation Criteria:

Unacceptable Performance:

Fails to perform initial analysis to determine validity of request, evaluating for reasonableness and regulatory compliance, scope; fee issues, expedition, and negotiate amicable resolution of disputed matters.

1. Fails to maintain data integrity of all transactions, including both in electronic and paper FOIA record keeping systems, through quality assurance audits and surveys

2. Fails to analyze in both an effective and timely manner issues or problems, whether technical, operational or human, affecting progress toward the goals and objectives of the project, and implement appropriate solutions.

3. Fails to perform initial analysis to determine validity of request, evaluating for reasonableness and regulatory compliance, scope; fee issues, expedition, and negotiate amicable resolution of disputed matters

4. Fails to acknowledge the incoming request, ensuring all pertinent issues have been accurately addressed, within five days of receipt by the analyst,.

5. Fails to ensure case files are organized in the standard format, and all electronic data is recorded, accurate, and up-to-date, to ensure compliance with the data integrity provisions of the Office's Standard Operating Procedures.

6. Fails to perform initial and subsequent quality control checks as required throughout the case management process.

7. Fails to analyze individual FOIA/PA cases to determine the steps needed to process the case draft.

8. Fails to perform all case management functions to include receipt, research and release functions needed to satisfy the requester's inquiry and move the case to completion.

Acceptable Performance:

1. Maintain data integrity of all transactions, including both in electronic and paper FOIA record keeping systems, through quality assurance audits and surveys.

2. Analyze in both an effective and timely manner issues or problems, whether technical, operational or human, affecting progress toward the goals and objectives of the project, and implement appropriate solutions.

3. Perform initial analysis to determine validity of request, evaluating for reasonableness and regulatory compliance, scope; fee issues, expedition, and negotiate amicable resolution of disputed matters.

4. Acknowledge the incoming request, ensuring all pertinent issues have been accurately addressed, within

five days of receipt by the analyst.

5. Ensure case files are organized in the standard format, and all electronic data is recorded, accurate, and up-to-date, to ensure compliance with the data integrity provisions of the Office's Standard Operating Procedures.
6. Perform initial and subsequent quality control checks as required throughout the case management process
7. Analyze individual FOIA/PA cases to determine the steps needed to process the case draft.
8. Perform all case management functions to include receipt, research and release functions needed to satisfy the requester's inquiry and move the case to completion.

Performance Indicator #2: The contractor shall assist in case processing, research, review, information analysis, appeals processing support, litigation support, and processing of special document production requests to the Office of Information Programs and Services, Requester Liaison, Statutory Compliance and Research, and Program and Policies Divisions.

Primary Method of Surveillance: Periodic Inspection, random monitoring, and review of logs.

Evaluation Criteria:

Unacceptable Performance:

1. Fails to provide support to FOIA Appeals and Litigation by opening FOIA appeals within 3 days of receipt and performing the duties associated with coordinating, staging, and out-processing the appeals. Also provide support to FOIA litigation activities by assisting with the drafting of declarations, and other duties associated with processing FOIA litigation cases, all by deadlines set by the FOIA Litigation Officer, FOIA Program Manager, or FOIA Counselor.
2. Fails to provide support to special document production activities by collecting and organizing documents, drafting routine correspondence, providing oral and written status reports, updating the automated FOIA case tracking system and administrative record of the project, and other related case processing duties as assigned all by deadlines set by the Team Leader or the Branch Chief.

Acceptable Performance:

1. Provide support to FOIA Appeals and Litigation by opening FOIA appeals within 3 days of receipt and performing the duties associated with coordinating, staging, and out-processing the appeals. Also provide support to FOIA litigation activities by assisting with the drafting of declarations, and other duties associated with processing FOIA litigation cases, all by deadlines set by the FOIA Litigation Officer, FOIA Program Manager, or FOIA Counselor.
2. Provide support to special document production activities by collecting and organizing documents, drafting routine correspondence, providing oral and written status reports, updating the automated FOIA case tracking system and administrative record of the project, and other related case processing duties as assigned all by deadlines set by the Team Leader or the Branch Chief.

7. DOCUMENTATION

The GTM will, in addition to providing documentation to the Contracting Officer and COR, maintain a complete Quality Assurance file. The file will contain copies of all reports, evaluations, recommendations, and any actions related to the Government's performance of the quality assurance function, including the originals of all Surveillance Activity Checklist (Attachment C). All such records will be retained for the life of this contract. The GTM shall forward these records to the Contracting Officer at termination or completion of the contract.

C.5.1 See QASP Surveillance Forms as Attachment 1 in Section J.

Section D - Packaging and Marking

D.1 Marking

[EMPTY CLAUSE TEXT]

Section E - Inspection and Acceptance

Clauses By Reference

Clause	Title	Date
52.246-11	Higher-Level Contract Quality Requirement (Feb 1999)	02/16/1999

E.1 Inspection

E-1.1 INSPECTION AND ACCEPTANCE – SERVICES (05/95)(MODIFIED)

Inspection and acceptance of the services to be provided hereunder shall be made by the Contracting Officer Representative or Contracting Officer's designee.

E-2 CONTRACTOR RESPONSIBILITY

The Contractor is responsible for the day-to-day inspection and monitoring of all Contractor work performed to ensure compliance with contract requirements. The results of all inspections conducted by the Contractor shall be documented on a weekly inspection report and made available to the COR by 12:00 noon on the first workday of each succeeding week. The report shall, but not be limited to, clear and concise inspection results, deficiency descriptions, process inspected, and adequate corrective action statements that prevent deficiency recurrence. To accomplish the tasks, the Contractor shall ensure that quality control personnel are available to the degree necessary.

E-3 THE ROLE OF GOVERNMENT PERSONNEL AND RESPONSIBILITY FOR CONTRACT ADMINISTRATION

A. Contracting Officer (CO): The CO has the overall responsibility for administering this contract. He/she alone, without delegation is authorized to take actions on behalf of the Government to: amend, modify, or deviate from the contract terms, conditions, requirements, specifications, details and delivery schedules; make final decisions on disputed deductions from contract payments for nonperformance or unsatisfactory performance; terminate the contract for convenience or default; and issue final decisions regarding contract questions or matters under dispute. Additionally, he/she may delegate certain other responsibilities to authorized representatives.

B. Contracting Officer's Representative (COR): The COR will assist the CO in discharging responsibilities. The responsibilities of the COR include, but are not limited to: evaluating Contractor performance with the terms and conditions of this contract; acting as the Government's representative at the work site; advising the Contractor of proposed deductions for nonperformance or unsatisfactory performance, and advising the CO of any factors which may cause delay in work performance.

C. Government Quality Control: Government quality control personnel are subordinates of the COR and are responsible for inspecting the Contractor's day-to-day work. The responsibilities of Government quality control program include, but are not limited to: inspecting the work to ensure compliance with the contract requirements; documenting, through written inspection reports, the results of all inspections conducted; conferring with Contractor representatives regarding any problems encountered in work performance, and generally assisting the COR in meeting contract responsibilities.

E-4 QUALITY STANDARDS

The Contractor shall ensure that the required services in this contract, meet the quality standards outlined therein. All work performed under this contract shall be of the highest quality standards, consistent with best industry practices, to assure timely provision of services, optimum DOS satisfaction, and adequate protection of Government assets.

E-5 GOVERNMENT QUALITY CONTROL

The Government may use a variety of inspection methods to evaluate the Contractor's performance, and more than one inspection method may be used. Examples of inspections are:

- A. Planned (periodic) surveillance of service (daily, weekly, monthly, quarterly, semiannually, or annually).
- B. 100% inspection of service
- C. Management Information System Data
- D. Unscheduled inspections.
- E. Process monitoring
- F. Unscheduled audits
- G. Random inspection
- H. Sampling inspection

E-6 CRITERIA FOR EVALUATING PERFORMANCE

A. If DOS inspection reports indicate performance deficiencies, the COR may require the Contractor to explain, in writing, why performance was unacceptable, how performance will be returned to acceptable levels, and how recurrence of the problem(s) will be prevented in the future. The COR will evaluate the Contractor's explanation and take appropriate action.

B. At the sole election of the COR, and upon notification to the Contractor, the Contractor may be required to re-perform or perform late any or all defective work disclosed by Government inspection, including incomplete performance. Where the Government so elects, the Contractor shall be notified promptly after inspection that specified defective services must be re-performed or performed late, and completed within a reasonable time, as specified by the Government. In such cases, the Government shall re-inspect work designated for re-performance or late performance, and the Contractor may be held liable for any damages sustained by the Government including, for example, the costs associated with re-inspection.

C. Re-performance and the acceptance of re-performance (or late performance) will be determined by the CO or COR on an individual service work item basis.

D. Except as otherwise provided by paragraph B and C, above, the services required by this contract are such that defective or incomplete performance is not normally subject to correction by re-performance or late performance. As such, the Contractor shall not expect permission to re-perform, perform late, or otherwise correct defective services merely to improve an existing inspection rating or avoid a reduction in the full monthly contract payment.

E-7 PERFORMANCE EVALUATION MEETINGS

The Contractor's Corporate Office Management is required to meet at least weekly with the CO and/or COR during the contract base period and all option periods. However, at the Contractor's or COR's request, a meeting may be held whenever a significant contract performance discrepancy is noticed. The written minutes of all meetings (prepared by the COR) shall be signed by the Contractor's Project Manager (or on-site supervisor) and the CO or COR. Should the Contractor not concur with the minutes, the Contractor shall identify any areas of nonoccurrence in writing to the CO within one week of receipt of the signed minutes. These weekly meetings may be postponed or discontinued for a period of time if, in the opinion of the COR, contract performance is being provided at an acceptable level by the Contractor.

E-8 DEDUCTIONS

Inadequate performance is just as undesirable as non-performance. Therefore, the Deduction Table calculations set forth in Section C, Attachment A, shall take precedence over the Contractor's quoted price estimates or their probable cost had he/she performed the work. Contractor's deductions shall increase at the same percentage rates as shown in Section B of the contract. Any inquiries regarding payment shall be directed to the COR.

E-9 QUALITY CONTROL PLAN

The Contractor shall submit a Quality Control Plan which demonstrates a clear and distinct understanding and

appreciation of the need for quality control, and its direct relationship to, and effect upon, operational and functional performance under the contract. The plan shall address the level, methods and frequencies of inspections, maintenance standards, as well as the distribution process of all applicable reports; and the procedures to follow-up and correct deficiencies, including time frames involved in correcting the deficiency. This plan will also address the Contractor's methods of responding to and satisfying tenant complaint. At a minimum the plan shall provide the following:

1. Identification of responsible officials;
2. A description of the level, methods, and frequency of inspections of all required services
3. Procedures to detect, follow up, and correct deficiencies and the time frames in which correction will be made.
4. Identification of the methods that will be utilized to evaluate customer feedback on services provided which will be use to determine if the building tenants are satisfied with the delivery, quality, and timeliness of delivered services.
5. Written inspection forms, reports, format to be used (provide samples) and an explanation of how and to whom they would be distributed.
6. A discussion of whether the quality control system encompasses all aspects of the process prior to and concurrent with providing the services.

The Contractor's Quality Control Plan shall be submitted to the COR 15 days after contract performance start date.

52.246-4

Inspection of Services--Fixed-Price (Aug 1996)

08/01/1996

(a) *Definition.* "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may-

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may-

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(2) Terminate the contract for default.

(End of clause)

52.246-6 Inspection--Time-and-Material and Labor-Hour (May 2001)

05/11/2001

(a) *Definitions.* As used in this clause-

"Contractor's managerial personnel" means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of-

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operation at any one plant or separate location where the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

"Materials" includes data when the contract does not include the Warranty of Data clause.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the material, fabricating methods, work, and services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) Unless otherwise specified in the contract, the Government shall accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they shall be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(f) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (h) of this clause, the cost of replacement or correction shall be determined under the Payments Under Time-and-Materials and Labor-Hour Contracts clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(g)(1) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may-

(i) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(ii) Terminate this contract for default.

(2) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute.

(h) Notwithstanding paragraphs (f) and (g) of this clause, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to-

(1) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(2) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(i) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(j) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(k) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

(End of clause)

Section F - Deliveries or Performance

F.1 Performance

(a) When the Department of State grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the Contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the Contracting Officer or his/her duly authorized representative.

(b) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided.

If services are provided for portions of days, appropriate adjustment will be made by the Contracting Officer to ensure that the Contractor is compensated for services provided.

(c) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any "Excusable Delays" clause of this contract, it will be without loss to the Contractor. The cost of salaries and wages to the Contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the Contractors accounting policy.

F.2 PLACE OF PERFORMANCE

Tasks set forth under this contract shall be performed in the IPS offices located at State Annex 2 (SA-2). The address of the primary place of performance is:

U.S. Department of State
Office of Information Programs and Services
A/GIS/IPS
515 22nd Street, N.W.
Washington, DC 20037

F.3 PERIOD OF PERFORMANCE

Performance under this contract shall be a one (1) year base period and four (4) one (1) year option periods.

F.4. **DELIVERABLES**

In fulfillment of this contract, the contractor shall submit monthly reports which address the quantitative objectives and qualitative goals of the project, e.g., number of cases closed, analysis of cases outstanding, appeals closed or staged for Appeals Review Panel, numbers and types of litigation functions supported.

F.5 **TIME OF PERFORMANCE**

Contractor shall perform the services set forth under this contract (8) hours per day between the hours of 8:00 a.m. and 5:00 p.m. with one hour for lunch, Monday through Friday, excluding Government holidays.

Alternative work schedules and telework are not authorized for under this contract.

F.6 **GOVERNMENT-FURNISHED EQUIPMENT AND SPACE (ON-SITE)**

The Government will furnish to contractor employees performing work on government premises on-site office space, furniture, telephone service (**for official government business only**), and any other necessary equipment and supplies applicable to performing the services set for in this RFP.

The Government will provide on-the-job training to contractor employees in business applications specific to the Department of State.

Section G - Contract Administration Data

G.1 Administrative Data

G-1.1 CONTRACT ADMINISTRATION DATA

Contracting Officer: Frederick Washington

Contract Administrator: Frederick Washington
Telephone Number: 703-284-1926

First Class Mailing: U.S. Department of State
Office of Acquisition
P.O. Box 9115, Rosslyn Station
Arlington, Virginia 22219

Courier or Hand Delivery: U.S. Department of State
Office of the Inspector General
1700 N. Moore Street
Suite 840
Arlington, Virginia 22209

Contracting Officer's
Representative (COR): Crystal Abrams
Telephone Number: (202) 261-8348

2.0 ADMINISTRATION

2.1 The Government representative, Task Manager, designated as the point of contact to interface with contractor employees and assign tasks under this contract is Crystal Abrams. Ms. Abrams may be contacted at the following address:

U.S. Department of State
Office of Information Programs and Services
A/GIS/IPS
515 22nd Street, N.W.
Washington, DC 20037

(202) 261-8348

2.2 The Government representative **will not** exercise any direct supervisory control or authority over the contractor employees so as to present or give the appearance of an employer-employee relationship. The Government representative will **only** assign tasks, inspect, receive, accept and/or reject the completed work furnished by contractor employees, as appropriate.

2.3 Only the senior on-site contractor employee shall exercise any direct supervisory control or authority over contractor personnel.

2.4 The Task Manager will be the Government's designated representative to inspect, accept, and certify invoices for services received under this contract.

01INV DEPARTMENT OF STATE INVOICE INSTRUCTIONS

10/30/2008

Invoice submission is only via the Office of Claims' Commercial Claims Operations fax server, toll-free number: 866-483-3436, unless otherwise indicated. Each invoice must be transmitted separately.

To constitute a proper invoice, the invoice must include the following information and/or attached documentation:

- (1) Name and Address of the Contractor
- (2) Dun and Brad Street Universal Number System (DUNS)
- (3) Date of invoice
- (4) Unique Vendor Invoice Number
- (5) Remittance Contact Information
- (6) Shipping Terms, Ship to Address
- (7) Payment Terms
- (8) Total Quantity of Items
- (9) Total Invoice Amount
- (10) Requisition Number, Contract Number and Order/Award Number, with modification number if applicable.
- (11) Order line item number and information (see below instructions)

The name and DUNS of the contractor on the invoice must match the information indicated on the order/award for proper payment.

IMPORTANT: For proper payment, the invoice must detail products and/or services delivered on a line item basis in direct accordance with the corresponding order/award/contract. Each line item must contain the following information:

- (1) Description of the services rendered for each line item**
- (2) Line Item Quantity**
- (3) Line Item Unit Price**
- (4) Total Line Item Invoicing Amount**
- (5) Delivery Date**
- (6) Contract Line Item Number (CLIN)**

(7) Order/Award Line Item Number if invoicing against a task or delivery order or Blanket Purchase Agreement (BPA)

Please note that many task or delivery orders against Department of State or GSA contracts or blanket purchase agreements may have a separate and unique line item number in addition to the umbrella Contract Line Item Number (CLIN). The order line item number as well as the umbrella award CLIN must be referenced at each invoice line item level in such cases.

All payment to domestic claims will be disbursed by electronic funds transfer EFT. Vendors who are registered in the Central Contractor Registration (CCR) should verify and re-confirm their financial information in the database prior to invoicing. Vendors who wish to request a waiver of CCR or payment by check must submit their justification to their assigned contracting officer for consideration at least 30 days prior to billing. For vendors who are granted an EFT exception, the payment address on the invoice must match the remittance address in the vendor record cited in the award.

Additional correspondence should be addressed to:

Name: U.S. Department of State
Global Financial Services
Attn: Office of Claims (RM/GFS/F/C)
Charleston Financial Service Center

Mailing Address:
Post Office Box 150008
Charleston, SC 29415-5008
Telephone Numbers:
Director's Secretary Voice 843-202-3761
Fax 843-746-0749
Official Office Hours: 8:00 am – 5:00 pm

To request Payment Status on a Past Due Invoice contact:
Office of Claims Customer Service
Email: commercialclaims@state.gov
Phone: 877-704-9473 Toll Free

Person to Contact: Supervisor, Vendor Claims
Email: GFS-ChiefVC@state.gov
Phone: 843-202-3881
(End of clause)

to issue delivery orders or task orders hereunder:

Department of State Contracting Officer

(b) Orders placed under this contract shall contain the following information:

- (1) Date of order;
- (2) Contract number and order number;
- (3) Item number and description, quantity, and unit price;
- (4) Delivery or performance date;
- (5) Place of delivery or performance (including consignee);
- (6) Packaging, packing, and shipping instructions, if any;
- (7) Accounting and appropriation data;
- (8) Security clearance level(s), applicable to the order, if any; and
- (9) Any other pertinent information.

(c) Issuance of orders by facsimile is authorized in accordance with FAR 52.216-18 "ORDERING."

(end of clause)

Section H - Special Contract Requirements

H.1 Contract Requirements

H.1.1 GOVERNMENT-FURNISHED EQUIPMENT AND SPACE (ON-SITE)

For contractor personnel performing work on Government premises, the Government shall provide: on-site office space, furniture, and telephone service.

H.2 INSURANCE REQUIREMENTS (05/95)

In accordance with FAR 52.228-5 "INSURANCE--WORK ON A GOVERNMENT INSTALLATION," the contractor shall, at no additional expense to this contract, provide and maintain, in addition to any other insurance coverage required elsewhere in this contract, the following types of insurance in the amounts specified. Before commencing work under this contract, the contractor shall certify to the contracting officer, in writing, that at least the kinds and minimum amounts of insurance required below have been obtained.

(a) Workers' Compensation and Employer's Liability--The contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensated under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 is required, except in states with exclusive or monopolistic funds that do not permit worker's compensation to be written by private carriers.

(b) General Liability--The contractor shall provide bodily injury liability insurance coverage written on the comprehensive form policy of at least \$500,000 per occurrence.

(c) Automobile Liability--The contractor shall provide automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

(d) Aircraft Public and Passenger Liability--When aircraft are used in connection with performing the contract, the contractor shall provide aircraft public and passenger liability insurance. Coverage shall be at least \$200,000 per occurrence for property damage. Coverage of passenger liability bodily injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.

(e) Vessel Liability--When contract performance involves use of vessels, the contractor shall provide vessel collision liability and protection and indemnity liability insurance.

H.3 KEY PERSONNEL (02/96)

(a) The contractor shall assign to this contract the following key personnel:

LABOR CATEGORY

NAME

On-Site Project Manager

Senior Management Analysts

(b) The contractor agrees that a partial basis for award of this contract is the list of key personnel proposed. Accordingly, the contractor agrees to assign to this contract those key persons whose resumes were submitted with the proposal necessary to fulfill the requirements of the contract. No substitution shall be made without prior notification to and concurrence of the contracting officer. During the first ninety days of performance, the contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment.

(c) All proposed substitutes must meet or exceed the qualifications of the person to be replaced. The contracting officer shall be notified in writing of any proposed substitution at least forty-five days, or ninety days if a security clearance is to be obtained, in advance of the proposed substitution. Such notification shall include: (1) an explanation of the circumstances necessitating the substitution; (2) a complete resume of the proposed substitute; and (3) any other information requested by the contracting officer to enable him or her to judge whether or not the contractor is maintaining the same high quality of personnel that provided the partial basis for award.

H.4 NONPAYMENT FOR UNAUTHORIZED WORK (05/95)

No payments will be made for any unauthorized supplies or services, or for any unauthorized changes to the work specified herein. This includes any services performed by the contractor of his own volition or at the request of an individual other than a duly appointed contracting officer. Only a duly appointed contracting officer is authorized to change the specifications, terms, and/or conditions of this contract.

H.5 ORGANIZATIONAL CONFLICT OF INTEREST - GENERAL (02/96)

(a) The contractor warrants that, to the best of its knowledge and belief, there are no relevant facts or circumstances which would give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the contractor has disclosed all such relevant information.

(b) The contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the contractor will make a full disclosure in writing to the contracting officer. This disclosure shall include a description of actions that the contractor has taken or proposes to take to avoid or mitigate the actual or potential conflict.

(c) If the contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the contracting officer, the Government may terminate the contract for default.

(d) The contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts.

H.6 SAFEGUARDING OF INFORMATION (05/95)

The contractor and its employees shall exercise the utmost discretion in regard to all matters relating to their duties and functions. They shall not communicate to any person any information known to them by reason of their performance of services under this contract that has not been made public, except in the necessary performance of their duties, upon written authorization of the contracting officer, or as required by law or legal process. All documents and records (including photographs) generated during the performance of work under this contract shall be for the sole use of and become the exclusive property of the U.S. Government. However, the contractor will be allowed to make and retain a complete copy of the supporting documentation related to the audit in accordance with professional standards. Furthermore, no article, book, pamphlet, recording, broadcast, speech, television appearance, film or photograph concerning any aspect of work performed under this contract shall be published or disseminated through any media without the prior written authorization of the contracting officer. These obligations do not cease upon the expiration or termination of this contract. The contractor shall include the substance of this provision in all contracts of employment and in all subcontracts

hereunder.

H.7 LEGAL REQUIREMENTS

Work under this contract shall comply with the requirements of all applicable Federal and State laws currently in effect or issued during the period of this contract. The contractor, his agents or employees shall be subject to criminal liability under title 18 Sections 793, 794 and 798 of the United States Code for disclosure of classified or restricted information to any person not entitled to receive it, or failure to safeguard any classified information that may come into contractor personnel's possession in connection with work under this contract. The contractor, his agents, or employees shall be subject to criminal liability under Title 18 Section 2071 for the alteration, destruction or unlawful removal of records, unless directed to do so by the contracting officer's representative.

H.8 STANDARDS OF WORK

The contractor agrees that the performance of work and services pursuant to the requirements of this contract shall conform to the highest professional standards.

It is further understood and agreed that the contractor shall in the performance of work hereunder comply with the requirement of Federal and State laws, rules and regulations in effect or issued during the period of this contract.

H.9 SECURITY REQUIREMENTS (02/96)

(a) In accordance with the DD254, Department of Defense Contract Security Classification Specification attached to this contract, a facility security clearance at the **Secret** level is required and personnel shall possess **Secret** individual clearances.

(b) Since it will be necessary for some contractor personnel to have access to classified material and/or to enter into areas requiring a security clearance, each contractor employee requiring such access must have an individual security clearance commensurate with the required level of access prior to contract performance. Individual clearances shall be maintained for the duration of employment under this contract, or until access requirements change.

(c) The contractor shall obtain a Department of State building pass for all employees performing under this contract who require frequent and continuing access to Department of State facilities in accordance with DOSAR 652.237-71 "IDENTIFICATION/BUILDING PASS."

(d) Performance of this contract shall be in accordance with the attached DD Form 254, Department of Defense Contract Security Classification Specification, FAR 52.204-2 "SECURITY REQUIREMENTS," DOSAR 652.204-70 "SECURITY REQUIREMENTS," and DOSAR 652.204-71 "SECURITY REQUIREMENTS--PERSONNEL," as applicable.

(e) Classified material received or generated in the performance of this contract shall be safeguarded and disposed of in accordance with the National Industrial Security Program Operating Manual (DOD 5220.22?M).

ADDITIONAL SECURITY REQUIREMENTS

Contractor Personnel

All contractor and subcontractor personnel performing work under this statement of work shall satisfy all requirements for appropriate security eligibility in dealing with access information and information systems belonging to or being used on behalf of the Department. **The contractor** shall be responsible for ensuring

compliance with these requirements by all of **the contractor's** and the subcontractor's staff.

All costs associated with obtaining clearances for contractor provided personnel will be the responsibility of **the contractor**.

Contractor System Security

The contractor shall ensure all contractor IT equipment utilized under this statement of work is configured for the data, information, and system security requirements in accordance with the Department's standard operating procedures and Federal laws, regulations, and standards. Additionally, all IT equipment utilized shall meet or exceed the Government minimum requirements for security. All Department data shall be considered sensitive information, and thus must be protected. **THE CONTRACTOR, ITS SUBCONTRACTORS AND THEIR EMPLOYEES SHALL NOT BRING INTO GOVERNMENT FACILITIES OR USE ON GOVERNMENT FACILITIES LAP TOP COMPUTERS, CELL PHONES, OR SIMILAR DEVICES.**

Any security violations or attempted violations shall be reported to the IPS COR immediately upon detection. Questions on information security policies, procedures, or standards should be referred to the IPS COR.

SUBCONTRACTING RESTRICTION

Except as specifically approved in writing, in advance by the COR, **the contractor** shall not subcontract any work procured hereunder. It is contemplated that approval will be given for subcontracting certain phases of the work when, in the opinion of the COR and the task monitors, subcontracting will not adversely affect delivery of the final product, the quality, or independence (in fact or appearance) of the contracted firm. Requests for approval to subcontract shall be submitted, in writing, to the COR.

INDEPENDENCE

The contractor, in a separate statement, shall represent that it is independent with respect to the Department. In this separate statement, **the contractor** shall briefly describe all work and known future work, including nonaudit services, with the Department in the past two (2) years.

Throughout the audit, **the contractor** shall also immediately inform the COR if **the contractor** is considering proposing or has already proposed on any contracts involving the Department that may impact the Department. **The contractor**, in a separate statement, shall represent that it will remain independent with respect to the Department. The COR will then evaluate whether award of these contracts could impair **the contractor's** independence with respect to the audit of the Department. **The contractor** shall notify the COR of the Department entity, the type of contract services to be provided, the period covered, and provide a copy of the applicable statement of work describing the requirements.

H.10 SMOKE-FREE WORKPLACE NOTICE (05/95)

- (a) The Department of State has been designated a smoke-free workplace.
- (b) *Definitions.* "Smoking" means a lighted cigar, cigarette, pipe or other tobacco product. "Smoking Areas" means those designated exterior spaces where the smoking of tobacco products is permitted.
- (c) *Applicability.* The Smoke-Free Workplace policy applies to all occupants of the Main State Complex; as well as all Department of State occupied space in other domestic buildings, whether owned, rented or leased, and to all Department of State owned, rented, or leased vehicles.
- (d) *Policy.* It is the policy of the Department of State to promote a healthy environment. Accordingly, the Department has adopted a policy prohibiting smoking in the interior of all domestic buildings and facilities effective August 1, 1993.

H.11 TECHNICAL DIRECTION (05/95)

(a) Performance of the work hereunder shall be subject to technical instructions, whether oral or written, issued by the contracting officer's representative specified in SECTION G of this contract. As used herein, technical instructions are defined to include the following:

(1) Directions to the contractor that suggest pursuit of certain lines of inquiry, change work emphasis, fill in details or otherwise serve to assist in the contractor's accomplishment of the statement of work.

(2) Guidance to the contractor that assists in the interpretation of drawings, specifications or technical portions of work description.

(b) Technical instructions must be within the general scope of work stated in the contract. Technical instructions may not be used to: (1) assign additional work under the contract; (2) direct a change as defined in the "Changes" clause of this contract; (3) increase or decrease the contract price or estimated contract amount (including fee), as applicable, the level of effort, or the time required for contract performance; or (4) change any of the terms, conditions or specifications of the contract.

(c) If, in the opinion of the contractor, any technical instruction calls for effort outside the scope of the contract or is inconsistent with this requirement, the contractor shall notify the contracting officer in writing within ten working days after the receipt of any such instruction. The contractor shall not proceed with the work affected by the technical instruction unless and until the contractor is notified by the contracting officer that the technical instruction is within the scope of this contract. Nothing in the foregoing paragraph shall be construed to excuse the contractor from performing that portion of the contractual work statement which is not affected by the disputed technical instruction.

H-12 REMOVAL FROM DUTY

The Department of State may direct the contractor to remove any employee immediately from the worksite(s) should it be determined that the person is unfit for the job. A determination of unfitness may be made from, but not be limited to, incidents involving the most immediately identifiable types of misconduct or delinquency as set forth below:

Falsification or unlawful concealment, removal, mutilation or destruction of any official document or records, or concealment of material facts by willful omissions from official documents or records.

Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions, or fighting. Also, participation in disruptive activities that interfere with the normal and efficient operations of the Government.

Theft, vandalism, immoral conduct, or any other criminal actions.

Selling, consuming, or being under the influence of intoxicants, drugs, or substances that produce similar effects.

Improper use of official authority or credentials.

Unauthorized use of communications equipment or Government property.

Violations of security procedures or regulations.

The contracting officer, based on information from the contracting officer's representative will make the determinations regarding the removal of any employee from worksite(s). Specific reasons for removal will be provided to the contractor in writing.

The contractor at no additional expense to the Government shall replace the individual(s) with the required expertise to perform the services under the contract. If the contractor is unable to replace the individual(s) with the required expertise the Government may contract to a firm that meets the Government's requirement and invoice the defaulting contractor.

H.13 RESTRICTIONS AGAINST DISCLOSURE

- a. Subject to the provisions of paragraph (c) below, the contractor agrees, in the performance of this contract, to keep all information that is obtained or otherwise unavailable to the general public, in the strictest of confidence. The contractor acquires neither possessory nor proprietary interests in such information. The contractor agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner or form, at any time, during or following contract performance, nor to authorize or permit others to do so. The contractor agrees to take such reasonable measures as are necessary to restrict access to such information to those employees needing such information to perform the work provided herein, i.e., on a “need to know basis”. The contractor agrees to immediately notify the contracting officer’s representative, in the event that he or she determines or had reason to suspect a breach of any of these requirements or restriction, and to provide written notification as soon as possible.
- b. The contractor agrees to include the above clause or equivalent language in any agreement or subcontract hereunder.
- c. The contractor agrees not to disclose any information concerning the work under this contract to any persons or entities unless prior written approval is obtained from the contracting officer or as required by law or legal process.

H.14 CONTRACTOR GENERATED MATERIAL

All material generated by the contractor under this contract, including printouts and analytical reports in whatever form, e.g. computer tapes, audio, video, is the property of the Government. An inventory list of all such material shall be provided to the Government not less than sixty days prior to the end of the contract. The material shall be delivered to the Government upon completion of the contract except for any items of material that the Government has elected in writing not to take delivery. The contractor will be allowed to make and retain a complete copy of the supporting documentation related to the audit in accordance with professional audit standards. Contractor generated material of any kind shall be made available or sold to any requesting Government or private activity without the prior written approval of the contracting officer. “Material” for purposes of this clause shall not be deemed to include contractor’s business and financial records, such as timesheets, payroll records, and internal memoranda that does not contain classified, proprietary or otherwise sensitive information obtained during contract performance.

Section I - Contract Clauses

Clauses By Reference

Clause	Title	Date
52.204-2	Security Requirements (Aug 1996)	08/01/1996
52.204-7	Central Contractor Registration (Apr 2008)	04/22/2008
52.215-8	Order of Precedence--Uniform Contract Format (Oct 1997)	10/01/1997
52.222-1	Notice to the Government of Labor Disputes (Feb 1997)	02/01/1997
52.222-26	Equal Opportunity (Mar 2007)	03/22/2007
52.222-26 Alt I	Equal Opportunity (Mar 2007)- Alternate I (Feb 1999)	02/16/1999
52.225-13	Restrictions on Certain Foreign Purchases (June 2008)	06/12/2008
52.232-17	Interest (Oct 2008)	10/17/2008
52.232-20	Limitation Of Cost (Apr 1984)	04/01/1984
52.233-1	Disputes (July 2002)	07/29/2002
52.233-1 Alt I	Disputes (July 2002)- Alternate I (Dec 1991)	12/01/1991
52.233-3	Protest after Award (Aug 1996)	08/01/1996
52.233-4	Applicable Law for Breach of Contract Claim (Oct 2004)	10/01/2004
52.242-1	Notice of Intent to Disallow Costs (Apr 1984)	04/01/1984
52.242-4	Certification of Final Indirect Costs (Jan 1997)	01/01/1997
52.242-13	Bankruptcy (July 1995)	07/01/1995
52.244-6	Subcontracts for Commercial Items (Feb 2009)	02/17/2009
52.245-1	Government Property (June 2007)	06/14/2007
52.246-23	Limitation of Liability (Feb 1997)	02/01/1997
52.249-14	Excusable Delays (Apr 1984)	04/01/1984

52.202-1 Definitions (July 2004) 07/19/2004

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless-

(1) The solicitation, or amended solicitation, provides a different definition;

(2) The contracting parties agree to a different definition;

(3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

(4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(End of clause)

52.203-3 Gratuities (Apr 1984)

04/01/1984

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative-

(1) Offered or gave a gratuity (*e.g.*, an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled-

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This paragraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.203-5 Covenant Against Contingent Fees (Apr 1984)

04/01/1984

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor

proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

52.203-6 Restrictions On Subcontractor Sales To The Government (Sept 2006)

09/28/2006

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

(End of clause)

52.203-7 Anti-Kickback Procedures (Jul 1995)

07/01/1995

(a) *Definitions.*

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from-

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excepting paragraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

(End of clause)

52.203-8

Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997)

01/01/1997

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may-

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which-

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either-

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of clause)

52.203-10 Price Or Fee Adjustment For Illegal Or Improper Activity (Jan 1997)

01/01/1997

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be-

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;

(3) For cost-plus-award-fee contracts-

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may-

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.203-12

Limitation On Payments To Influence Certain Federal Transactions (Sept 2007)

09/17/2007

(a) *Definitions.* As used in this clause--

"Agency" means "executive agency" as defined in Federal Acquisition Regulation (FAR) 2.101.

"Covered Federal action" means any of the following actions:

- (1) Awarding any Federal contract.
- (2) Making any Federal grant.
- (3) Making any Federal loan.
- (4) Entering into any cooperative agreement.
- (5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.
- (3) A special Government employee, as defined in section 202, Title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are

made for purposes specified in paragraph (b) of this clause and *are* permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) *Prohibition.* 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal actions. In accordance with 31 U.S.C. 1352 the Contractor shall not use appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term *appropriated funds* does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) *Exceptions.* The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) *Agency and legislative liaison by Contractor employees.* (i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern--

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

B) The application or adaptation of the person's products or services for an agency's use.

(iii) Providing prior to formal solicitation of any covered Federal action any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(v) Making capability presentations prior to formal solicitation of any covered Federal action by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(2) *Professional and technical services.* (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal,

amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(iii) As used in paragraph (c)(2) of this clause, "professional and technical services" are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) *Disclosure.* (1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) *Penalties.* (1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) *Cost allowability.* Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(g) *Subcontracts.* (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding \$100,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which

the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding \$100,000.

(End of clause)

52.203-13 Contractor Code of Business Ethics and Conduct (Dec 2008)

12/12/2008

(a) *Definitions.* As used in this clause--

"Agent" means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

"Full cooperation"-- (1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require--

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from--

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment; and similar positions).

"Subcontract" means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

"Subcontractor" means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

"United States" means the 50 States, the District of Columbia, and outlying areas.

(b) *Code of business ethics and conduct.* (1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall--

- (i) Have a written code of business ethics and conduct;
- (ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall--

- (i) Exercise due diligence to prevent and detect criminal conduct; and
- (ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3)(i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed--

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729–3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multipleaward schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the contractor's standards and procedures and other aspects of the Contractor's business ethics awareness

and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) *An internal control system.* (i) The Contractor's internal control system shall--

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including--

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor

or a subcontractor thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31U.S.C. 3729–3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multipleaward schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.* (1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(End of clause)

52.203-14 Display of Hotline Poster(s) (Dec 2007)

12/24/2007

(a) *Definition.*

"United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* Except as provided in paragraph (c)--

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites--

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s)	Obtain from

(Contracting Officer shall insert- (i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5,000,000, except when the subcontract--

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

(End of clause)

52.204-1 Approval of Contract (Dec 1989) 12/01/1989

This contract is subject to the written approval of [identify title of designated agency official here] and shall not be binding until so approved.

(End of clause)

52.207-3 Right of First Refusal of Employment (May 2006) 05/19/2006

(a) The Contractor shall give Government personnel who have been or will be adversely affected or separated as a result of award of this contract the right of first refusal for employment openings under the contract in positions for which they are qualified, if that employment is consistent with post-Government employment conflict of interest standards.

(b) Within 10 days after contract award, the Contracting Officer will provide to the Contractor a list of all Government personnel who have been or will be adversely affected or separated as a result of award of this contract.

(c) The Contractor shall report to the Contracting Officer the names of individuals identified on the list who are

hired within 90 days after contract performance begins. This report shall be forwarded within 120 days after contract performance begins.

(End of clause)

52.209-6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment (Sept 2006) 09/28/2006

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$30,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the Excluded Parties List System). The notice must include the following:

- (1) The name of the subcontractor.
- (2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(End of clause)

52.215-2 Audit and Records--Negotiation (Mar 2009) 03/31/2009

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(c) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

- (1) The proposal for the contract, subcontract, or modification;

(2) The discussions conducted on the proposal(s), including those related to negotiating;

(3) Pricing of the contract, subcontract, or modification; or

(4) Performance of the contract, subcontract or modification.

(d) *Comptroller General.*-- (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating--

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition--

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and--

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(End of clause)

52.215-10 Price Reduction for Defective Cost or Pricing Data (Oct 1997)

10/01/1997

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because-

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which-

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(c)(1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if-

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if-

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid-

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

52.215-11 Price Reduction for Defective Cost or Pricing Data--Modifications (Oct 1997) 10/01/1997

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which-

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current

cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by paragraph (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if-

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if-

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid-

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

(a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when

entered into, the Contractor shall insert either-

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data-Modifications.

(End of clause)

52.215-13 Subcontractor Cost or Pricing Data--Modifications (Oct 1997)

10/01/1997

(a) The requirements of paragraphs (b) and (c) of this clause shall-

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4; and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(End of clause)

52.215-14 Integrity of Unit Prices (Oct 1997)

10/01/1997

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (*e.g.*, manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of cost or pricing data not otherwise required by law or regulation.

(b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.

(c) The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

(End of clause)

52.216-10 Incentive Fee (Mar 1997)

03/01/1997

(a) *General*. The Government shall pay the Contractor for performing this contract a fee determined as provided in this contract.

(b) *Target cost and target fee*. The target cost and target fee specified in the Schedule are subject to adjustment if the contract is modified in accordance with paragraph (d) of this clause.

(1) "Target cost", as used in this contract, means the estimated cost of this contract as initially negotiated, adjusted in accordance with paragraph (d) of this clause.

(2) "Target fee", as used in this contract, means the fee initially negotiated on the assumption that this contract would be performed for a cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (d) of this clause.

(c) *Withholding of payment*. Normally, the Government shall pay the fee to the Contractor as specified in the Schedule. However, when the Contracting Officer considers that performance or cost indicates that the Contractor will not achieve target, the Government shall pay on the basis of an appropriate lesser fee. When the Contractor demonstrates that performance or cost clearly indicates that the Contractor will earn a fee significantly above the target fee, the Government may, at the sole discretion of the Contracting Officer, pay on the basis of an appropriate higher fee. After payment of 85 percent of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the applicable fee or \$100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(d) *Equitable adjustments*. When the work under this contract is increased or decreased by a modification to this contract or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in a supplemental agreement to this contract.

(e) Fee payable.

(1) The fee payable under this contract shall be the target fee increased by [Contracting Officer insert Contractor's participation] cents for every dollar that the total allowable cost is less than the target cost or decreased by [Contracting Officer insert Contractor's participation] cents for every dollar that the total allowable cost exceeds the target cost. In no event shall the fee be greater than [Contracting Officer insert percentage] percent or less than [Contracting Officer insert percentage] percent of the target cost.

(2) The fee shall be subject to adjustment, to the extent provided in paragraph (d) of this clause, and within the minimum and maximum fee limitations in paragraph (e)(1) of this clause, when the total allowable cost is increased or decreased as a consequence of-

(i) Payments made under assignments; or

(ii) Claims excepted from the release as required by paragraph (h)(2) of the Allowable Cost and Payment clause.

(3) If this contract is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this contract.

(4) For the purpose of fee adjustment, "total allowable cost" shall not include allowable costs arising out of-

- (i) Any of the causes covered by the Excusable Delays clause to the extent that they are beyond the control and without the fault or negligence of the Contractor or any subcontractor;
 - (ii) The taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in the Contractor's being required to pay or bear the burden of any tax or duty or rate increase in a tax or duty;
 - (iii) Any direct cost attributed to the Contractor's involvement in litigation as required by the Contracting Officer pursuant to a clause of this contract, including furnishing evidence and information requested pursuant to the Notice and Assistance Regarding Patent and Copyright Infringement clause;
 - (iv) The purchase and maintenance of additional insurance not in the target cost and required by the Contracting Officer, or claims for reimbursement for liabilities to third persons pursuant to the Insurance Liability to Third Persons clause;
 - (v) Any claim, loss, or damage resulting from a risk for which the Contractor has been relieved of liability by the Government Property clause; or
 - (vi) Any claim, loss, or damage resulting from a risk defined in the contract as unusually hazardous or as a nuclear risk and against which the Government has expressly agreed to indemnify the Contractor.
- (5) All other allowable costs are included in "total allowable cost" for fee adjustment in accordance with this paragraph (e), unless otherwise specifically provided in this contract.
- (f) *Contract modification.* The total allowable cost and the adjusted fee determined as provided in this clause shall be evidenced by a modification to this contract signed by the Contractor and Contracting Officer.
- (g) *Inconsistencies.* In the event of any language inconsistencies between this clause and provisioning documents or Government options under this contract, compensation for spare parts or other supplies and services ordered under such documents shall be determined in accordance with this clause.

(End of clause)

52.216-18 Ordering (Oct 1995)

10/01/1995

- (a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from [insert dates] through [insert dates].
- (b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
- (c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

52.216-22 Indefinite Quantity (Oct 1995)

10/01/1995

- (a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The

Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after [insert date].

(End of clause)

52.216-24 Limitation of Government Liability (Apr 1984) 04/01/1984

(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding _____ dollars.

(b) The maximum amount for which the Government shall be liable if this contract is terminated is _____ dollars.

(End of clause)

52.216-29 Time-and-Materials/Labor-Hour Proposal Requirements - Non-Commercial Item 02/12/2007
Acquisition With Adequate Price Competition (Feb 2007)

(a) The Government contemplates award of a Time-and-Materials or Labor-Hour type contract resulting from this solicitation.

(b) The offeror must specify fixed hourly rates in its offer that includes wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by--

- (1) The offeror;
- (2) Subcontractors; and/or
- (3) Divisions, subsidiaries, or affiliates of the offeror under a common control;

(c) The offeror must establish fixed hourly rates using--

(1) Separate rates for each category of labor to be performed by each subcontractor and for each category of labor to be performed by the offeror, and for each category of labor to be transferred between divisions, subsidiaries, or affiliates of the offeror under a common control;

(2) Blended rates for each category of labor to be performed by the offeror, including labor transferred between divisions, subsidiaries, or affiliates of the offeror under a common control, and all subcontractors or

(3) Any combination of separate and blended rates for each category of labor to be performed by the offeror, affiliates of the offeror under a common control, and subcontractors.

(End of provision)

52.216-30 Time-and-Materials/Labor-Hour Proposal Requirements - Non-Commercial Item 02/12/2007
Acquisition Without Adequate Price Competition (Feb 2007)

(a) The Government contemplates award of a Time-and-Materials or Labor-Hour type contract resulting from

this solicitation.

(b) The offeror must specify separate fixed hourly rates in its offer that include wage, overhead, general and administrative expenses, and profit for each category of labor to be performed by--

(1) The offeror;

(2) Each subcontractor; and

(3) Each division, subsidiary, or affiliate of the offeror under a common control.

(c) Unless exempt under paragraph (d) of this provision, the fixed hourly rates for services transferred between divisions, subsidiaries, or affiliates of the offeror under a common control--

(1) Shall not include profit for the transferring organization; but

(2) May include profit for the prime Contractor.

(d) The fixed hourly rates for services that meet the definition of commercial item at 2.101 that are transferred between divisions, subsidiaries, or affiliates of the offeror under a common control may be the established practice of the transferring organization to price interorganizational transfers at other than cost of commercial work of the offeror or any division, subsidiary or affiliate of the offeror under a common control.

(End of provision)

52.217-6 Option for Increased Quantity (Mar 1989) 03/01/1989

The Government may increase the quantity of supplies called for in the Schedule at the unit price specified. The Contracting Officer may exercise the option by written notice to the Contractor within _____ *[insert in the clause the period of time in which the Contracting Officer has to exercise the option]*. Delivery of the added items shall continue at the same rate as the like items called for under the contract, unless the parties otherwise agree.

(End of clause)

52.217-7 Option for Increased Quantity-Separately Priced Line Item (Mar 1989) 03/01/1989

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within *[insert in the clause the period of time in which the Contracting Officer has to exercise the option]*. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

(End of clause)

52.217-8 Option to Extend Services (Nov 1999) 11/23/1999

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within *[insert the period of time with which the Contracting Officer may exercise the option]*.

(End of clause)

52.217-9 Option to Extend the Term of the Contract (Mar 2000) 03/27/2000

(a) The Government may extend the term of this contract by written notice to the Contractor within [insert the period of time within which the Contracting Officer may exercise the option]; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least _____ days *[60 days unless a different number of days is inserted]* before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed (months)(years).

(End of clause)

52.219-6 Notice of Total Small Business Set-Aside (June 2003)

06/01/2003

(a) *Definition.* "Small business concern", as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) General.

(1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(c) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

(End of clause)

52.222-2 Payment for Overtime Premiums (July 1990)

07/01/1990

(a) The use of overtime is authorized under this contract if the overtime premium does not exceed * _____ or the overtime premium is paid for work--

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

(1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer

to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

* Insert either "zero" or the dollar amount agreed to during negotiations. The inserted figure does not apply to the exceptions in paragraph (a)(1) through (a)(4) of the clause.

(End of clause)

52.222-52

Exemption from Application of the Service Contract Act to Contracts for Certain
Services -- Certification. (Nov 2007)

11/07/2007

(a) The offeror shall check the following certification:

CERTIFICATION

The offeror ___ does ___ does not certify that--

(1) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(2) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An "established market price" is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or offeror;

(3) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(4) The offeror uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the offeror uses for these employees and for equivalent employees servicing commercial customers.

(b) Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services. If the offeror certifies to the conditions in paragraph (a) of this provision, and the Contracting Officer determines in accordance with FAR 22.1003-4(d)(3) that the Service Contract Act--

(1) Will not apply to this offeror, then the Service Contract Act of 1965 clause in this solicitation will not be included in any resultant contract to this offeror; or

(2) Will apply to this offeror, then the clause at FAR 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements, in this solicitation will not be included in any resultant contract awarded to this offer, and the offeror may be provided an opportunity to submit a new offer on that basis.

(c) If the offeror does not certify to the conditions in paragraph (a) of this provision--

(1) The clause of this solicitation at 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements, will not be included in any resultant contract to this offeror; and

(2) The offeror shall notify the Contracting Officer as soon as possible if the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation.

(d) The Contracting Officer may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of this provision or to contact the Contracting Officer as required in paragraph (c) of this provision.

(End of provision)

52.224-1 Privacy Act Notification (Apr 1984) 04/01/1984

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

(End of clause)

52.224-2 Privacy Act (Apr 1984) 04/01/1984

(a) The Contractor agrees to--

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies--

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this paragraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c)(1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

52.228-3 Worker's Compensation Insurance (Defense Base Act) (Apr 1984) 04/01/1984

The Contractor shall (a) provide, before commencing performance under this contract, such workers' compensation insurance or security as the Defense Base Act (42 U.S.C. 1651, et seq.) requires and (b) continue to maintain it until performance is completed. The Contractor shall insert, in all subcontracts under this contract to which the Defense Base Act applies, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to comply with the Defense Base Act.

(End of clause)

52.228-5 Insurance - Work on a Government Installation (Jan 1997) 01/01/1997

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective-

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractor's proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of clause)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR Part 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall-

(1) (*CAS-covered Contracts Only*) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with paragraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR Part 9904, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to paragraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of paragraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor

made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR 9904 or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$650,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

52.230-3 Disclosure And Consistency Of Cost Accounting Practices (Oct 2008) 10/17/2008

JPO

52.232-7 Payments under Time-and-Materials and Labor Hour Contracts (Feb 2007) 02/12/2007

The Government will pay the Contractor as follows upon the submission of vouchers approved by the Contracting Officer or the authorized representative:

(a) *Hourly rate.* (1) *Hourly rate* means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are--

- (i) Performed by the Contractor;
- (ii) Performed by the subcontractor; or
- (iii) Transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control.

(2) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed.

(3) The hourly rates shall be paid for all all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent work is performed by employees that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(4) The hourly rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis.

(5) Vouchers may be submitted once a month (or at more frequent intervals, if approved by the Contracting

Officer), to the Contracting Officer or authorized representative. The Contracting Officer shall substantiate vouchers (including schedule) by evidence of actual payment and by--

- (i) Individual daily job timekeeping records;
- (ii) Records that verify the employees meet the qualifications for the labor categories specified in the contract; or
- (iii) Other substantiation approved by the Contracting Officer.

(6) Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract, and subject to the terms of paragraph (e) of this clause, pay the voucher as approved by the Contracting Officer or authorized representative.

(7) Unless otherwise prescribed in the Schedule, the Contracting Officer may unilaterally issue a contract modification requiring the Contractor to withhold amounts from its billings until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interests. The Contracting Officer may require a withhold of 5 percent of the amounts due under paragraph (a) of this clause, but the total amount withheld for the contract shall not exceed \$50,000. The amounts withheld shall be retained until the Contractor executes and delivers the release required by paragraph (f) of this clause.

(8) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(b) *Materials*. (1) or the purpose of this clause--

(i) *Direct Materials* means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product.

(ii) *Materials means--*

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct cost (*e.g.*, incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.); and

(D) Applicable indirect costs.

(2) If the Contractor furnishes its own materials that meet the definition of a commercial item at 2.101, the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the--

(i) Quantities being acquired; and

(ii) Actual cost of any modifications necessary because of contract requirements.

(3) Except as provided for in paragraph (b)(2) of this clause, the Government will reimburse the Contractor for allowable cost of materials provided the Contractor--

(i) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(ii) Ordinarily makes these payments within 30 days of the submission of the Contractor's payment request to the Government and such payment is in accordance with the terms and conditions of the agreement or invoice.

(4) Payment for materials is subject to the Allowable Cost and Payment clause of this contract. The Contracting Officer will determine allowable costs of materials in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(5) The Contractor may include allocable indirect costs and other direct costs to the extent they are--

(i) Comprised only of costs that are clearly excluded from the hourly rate;

(ii) Allocated in accordance with the Contractor's written or established accounting practices; and

(iii) Indirect costs are not applied to subcontracts that are paid at the hourly rates.

(6) To the extent able, the Contractor shall--

(i) Obtain materials at the most advantageous prices available with regard to securing prompt delivery of satisfactory materials; and

(ii) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. The Contractor shall give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the fault or neglect of the Contractor. The Contractor shall not deduct from gross costs the benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government.

(7) Except as provided for in 31.205-26(e) and (f), the Government will not pay profit or fee to the prime Contractor on materials.

(c) If the Contractor enters into any subcontract that requires consent under the clause at 52.244-2, Subcontracts, without obtaining such consent, the Government is not required to reimburse the Contractor for any costs incurred under the subcontract prior to the date the Contractor obtains the required consent. Any reimbursement of subcontract costs incurred prior to the date the consent was obtained shall be at the sole discretion of the Government.

(d) *Total cost.* It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule, and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during performing this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performing this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(e) *Ceiling price.* The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the

ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(f) *Audit.* At any time before final payment under this contract the Contracting Officer may request audit of the vouchers and supporting documentation. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding vouchers, that are found by the Contracting Officer or authorized representative not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher designated by the Contractor as the "completion voucher" and supporting documentation, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of (f) and (g) of this clause), the Government shall promptly pay any balance due the Contractor. The completion voucher, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(f) *Assignment and Release of Claims.* The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(h) *Interim payments on contracts for other than services.* (1) Interim payments made prior to the final payment under the contract are contract financing payments. Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act.

(2) The designated payment office will make interim payments for contract financing on the [Contracting Officer insert day as prescribed by agency head. If not prescribed, insert 30th] day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(i) *Interim payments on contracts for services.* For interim payments made prior to the final payment under this contract, the Government will make final payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(End of clause)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made.

No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

52.232-23 Assignment Of Claims (Jan 1986)

01/01/1986

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

52.232-32 Performance-Based Payments (Jan 2008)

01/25/2008

(a) Amount of payments and limitations on payments. Subject to such other limitations and conditions as are specified in this contract and this clause, the amount of payments and limitations on payments shall be specified in the contract's description of the basis for payment.

(b) Contractor request for performance-based payment. The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all performance-based payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled. The Contractor's request shall contain the information and certification detailed in paragraphs (l) and (m) of this clause.

(c) Approval and payment of requests.

(1) The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Contracting Officer shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved requests on the [Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"] day after receipt of the request for performance-based payment

by the designated payment office. However, the designated payment office is not required to provide payment if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquires into the status of an event or performance criterion, or into any of the conditions listed in paragraph (e) of this clause, or into the Contractor certification. The payment period will not begin until the Contracting Officer approves the request.

(3) The approval by the Contracting Officer of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this contract.

(d) Liquidation of performance-based payments.

(1) Performance-based finance amounts paid prior to payment for delivery of an item shall be liquidated by deducting a percentage or a designated dollar amount from the delivery payment. If the performance-based finance payments are on a delivery item basis, the liquidation amount for each such line item shall be the percent of that delivery item price that was previously paid under performance-based finance payments or the designated dollar amount. If the performance-based finance payments are on a whole contract basis, liquidation shall be by either predesignated liquidation amounts or a liquidation percentage.

(2) If at any time the amount of payments under this contract exceeds any limitation in this contract, the Contractor shall repay to the Government the excess. Unless otherwise determined by the Contracting Officer, such excess shall be credited as a reduction in the unliquidated performance-based payment balance(s), after adjustment of invoice payments and balances for any retroactive price adjustments.

(e) Reduction or suspension of performance-based payments. The Contracting Officer may reduce or suspend performance-based payments, liquidate performance-based payments by deduction from any payment under the contract, or take a combination of these actions after finding upon substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (h) and (i) of this clause).

(2) Performance of this contract is endangered by the Contractor's--

(i) Failure to make progress; or

(ii) Unsatisfactory financial condition.

(3) The Contractor is delinquent in payment of any subcontractor or supplier under this contract in the ordinary course of business.

(f) Title.

(1) Title to the property described in this paragraph (f) shall vest in the Government. Vestiture shall be

immediately upon the date of the first performance-based payment under this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract.

(2) "Property," as used in this clause, includes all of the following described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices:

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;

(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment and other similar manufacturing aids, title to which would not be obtained as special tooling under paragraph (f)(2)(ii) of this clause; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract (e.g., the termination or special tooling clauses) shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract, without requesting the Contracting Officer's approval, provided that any significant reduction in the value of the property to which the Government has title under this clause is reported in writing to the Contracting Officer.

(5) In order to acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor shall obtain the Contracting Officer's advance approval of the action and the terms. If approved, the basis for payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not--

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(g) Risk of loss. Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. If any property is damaged, lost, stolen, or destroyed, the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(h) Records and controls. The Contractor shall maintain records and controls adequate for administration of this clause. The Contractor shall have no entitlement to performance-based payments during any time the Contractor's records or controls are determined by the Contracting Officer to be inadequate for administration of this clause.

(i) Reports and Government access. The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Contracting Officer for the administration of this clause and to determine that an event or other criterion prompting a financing payment has been successfully accomplished. The Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's records and to examine and verify the Contractor's performance of this contract for administration of this clause.

(j) Special terms regarding default. If this contract is terminated under the Default clause, (1) the Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments, and (2) title shall vest in the Contractor, on full liquidation of all performance-based payments, for all property for which the Government elects not to require delivery under the Default clause of this contract. The Government shall be liable for no payment except as provided by the Default clause.

(k) Reservation of rights.

(1) No payment or vesting of title under this clause shall--

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause--

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(l) Content of Contractor's request for performance-based payment. The Contractor's request for

performance-based payment shall contain the following:

- (1) The name and address of the Contractor;
- (2) The date of the request for performance-based payment;
- (3) The contract number and/or other identifier of the contract or order under which the request is made;
- (4) Such information and documentation as is required by the contract's description of the basis for payment;
and
- (5) A certification by a Contractor official authorized to bind the Contractor, as specified in paragraph (m) of this clause.

(m) Content of Contractor's certification. As required in paragraph (1)(5) of this clause, the Contractor shall make the following certification in each request for performance-based payment:

I certify to the best of my knowledge and belief that--

- (1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared from the books and records of the Contractor, in accordance with the contract and the instructions of the Contracting Officer;
- (2) (Except as reported in writing on _____), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;
- (3) There are no encumbrances (except as reported in writing on _____) against the property acquired or produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;
- (4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to the Government of the most recent written information dated _____;
and
- (5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.

(End of clause)

(a) Method of payment.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) *Contractor's EFT information.* The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) *Mechanisms for EFT payment.* The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) *Suspension of payment.* If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) *Liability for uncompleted or erroneous transfers.*

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient

other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to Subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of clause)

52.233-3 Alt I Protest after Award (Aug 1996)- Alternate I (Jun 1985)

06/01/1985

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as *provided* in the Termination clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

52.239-1 Privacy or Security Safeguards (Aug 1996)

08/01/1996

(a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this contract or otherwise provided by the Government.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

(End of clause)

52.243-1 Changes--Fixed Price (Aug 1987)

08/01/1987

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

52.243-4 Changes (June 2007)

06/14/2007

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes-

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Government-furnished property or services;

or

(4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating-

(1) The date, circumstances, and source of the order; and

(2) That the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) of this clause.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

(a) *Definitions.* "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer.

"Specifically Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this paragraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) *Notice.* The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and

signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within _____ (to be negotiated) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state

- (1) The date, nature, and circumstances of the conduct regarded as a change;
 - (2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;
 - (3) The identification of any documents and the substance of any oral communication involved in such conduct;
 - (4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
 - (5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including--
 - (i) What contract line items have been or may be affected by the alleged change;
 - (ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - (iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - (iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
 - (6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.
- (c) *Continued performance.* Following submission of the notice required by paragraph (b) of this clause, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in paragraph (b) of this clause, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.
- (d) *Government response.* The Contracting Officer shall promptly, within _____ (to be negotiated) calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either--
- (1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;
 - (2) Countermand any communication regarded as a change;
 - (3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or
 - (4) In the event the Contractor's notice information is inadequate to make a decision under paragraphs (d)(1), (2), or (3) of this clause, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.
- (e) Equitable adjustments.

(1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--

(i) In the contract price or delivery schedule or both; and

(ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in paragraphs (b) and (c) of this clause.

Note: The phrases "contract price" and "cost" wherever they appear in the clause, may be appropriately modified to apply to cost-reimbursement or incentive contracts, or to combinations thereof.

(End of clause)

52.249-2

Termination for Convenience of the Government (Fixed-Price) (May 2004)

04/01/2004

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government--

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in paragraph (b)(6) of this clause; *provided*, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(d) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may

include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of costs shown in paragraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under paragraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of--

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under paragraph (g)(1) of this clause;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(2)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(2)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (g)(2)(iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

- (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- (ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or
- (iii) Perform any of the other provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

(End of clause)

Section J - List of Attachments

J.1 Instructions

SECTION J — LIST OF ATTACHMENTS

<u>HEADING</u>	<u>TITLE</u>	<u>No. of PAGES</u>
ATTACHMENT 1	Quality Assurance Surveillance Plan	6
	Attachment A – Review Form	
	Attachment B – Monitoring Form	
	Attachment C – PI #1	
	Attachment D – PI #2	
ATTACHMENT 2	Past Performance Survey	6
ATTACHMENT 3	DD Form 254, Department of	4
	Defense Contract Security	
	Classification Specification	
ATTACHMENT 4	Business Management Questionnaire	6
ATTACHMENT 5	Standard Form 3881, ACH Vendor/	2
	Miscellaneous Payment Enrollment Form	
ATTACHMENT 6	Disclosure of Lobbying Activities	2

Section K - Representations, Certifications, and Other Statements of Offerors or Respondents

K.1 Certifications

[EMPTY CLAUSE TEXT]

52.203-2 Certificate Of Independent Price Determination (Apr 1985)

04/01/1985

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to--

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of provision)

52.203-11 Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions (Sept 2007)

09/17/2007

(a) *Definitions.* As used in this provision-"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person,"

"reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification.* The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

52.204-3 Taxpayer Identification (Oct 1998)

10/30/1998

(a) *Definitions.*

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) *Taxpayer Identification Number (TIN).*

__TIN: _____.

__TIN has been applied for.

__TIN is not required because:

__Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

__Offeror is an agency or instrumentality of a foreign government;

__Offeror is an agency or instrumentality of the Federal Government.

(e) *Type of organization.*

__Sole proprietorship;

__Partnership;

__Corporate entity (not tax-exempt);

__Corporate entity (tax-exempt);

__Government entity (Federal, State, or local);

__Foreign government;

__International organization per 26 CFR 1.6049-4;

__Other _____.

(f) *Common parent.*

__Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

__Name and TIN of common parent:

Name _____.

TIN _____.

(End of provision)

52.204-5 Women-Owned Business (Other Than Small Business) (May 1999)

05/03/1999

(a) *Definition.* Women-owned business concern, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) *Representation.* [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, *Small Business Program Representations*, of this solicitation.] The offeror represents that it is a women-owned business concern.

(End of provision)

52.204-8 Annual Representations and Certifications (Feb 2009)

02/17/2009

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is

_____ *[insert NAICS code]*.

(2) The small business size standard is _____ *[insert size standard]*.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

___ (i) Paragraph (d) applies.

___ (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:

(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless--

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$100,000.

(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.

(iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that--

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(v) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vi) 52.214-14, Place of Performance-Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(vii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(viii) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(ix) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(x) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xi) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xiv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

(xv) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.

(xvi) 52.225-4, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate. (Basic, Alternate I, and Alternate II) This provision applies to solicitations containing the clause at 52.225-3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$67,826, the provision with its Alternate II applies.

(xvii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xviii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan-Certification.

(xix) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to--

(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) The following certifications are applicable as indicated by the Contracting Officer:

[Contracting Officer check as appropriate.]

___ (i) 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.

___ (ii) 52.219-21, Small Business Size Representation for Targeted Industry Categories Under the Small Business Competitiveness Demonstration Program.

___ (iii) 52.219-22, Small Disadvantaged Business Status.

___ (A) Basic.

___ (B) Alternate I.

___ (iv) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

___ (v) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.

___ (vi) 52.222-52 Exemption from Application of the Service Contract Act to Contracts for Certain Services-Certification.

___ (vii) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

___ (viii) 52.223-13, Certification of Toxic Chemical Release Reporting.

___ (ix) 52.227-6, Royalty Information.

___ (A) Basic.

___ (B) Alternate I.

___ (x) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below.

[offeror to insert changes, identifying change by clause number, title, date].

FAR Clause #	Name	Date	Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(End of provision)

52.215-6 Place of Performance (Oct 1997) 10/01/1997

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, ___ intends, ___ does not intend *[check applicable block]* to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance (Street Address, State, County, ZIP Code)	Name and Address of Owner and Operator of the Plant of the Facility if other than Bidder or Respondent

(End of provision)

52.219-22 Small Disadvantaged Business Status (Oct 1999)

10/01/1999

(a) *General.* This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations.

(1) *General.* The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

___ (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

___ (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) ___ *For Joint Ventures.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. *[The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]*

(c) *Penalties and Remedies.* Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall--

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

(End of provision)

52.222-22 Previous Contracts and Compliance Reports (Feb 1999)

02/16/1999

The offeror represents that--

(a) It ___ has, ___ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It ___ has, ___ has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. Disclosure Statement--Cost Accounting Practices and Certification

(a) Any contract in excess of \$650,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

Caution: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

___ (1) *Certificate of Concurrent Submission of Disclosure Statement*. The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:

(i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and

(ii) One copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO or Federal Official Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

(2) *Certificate of Previously Submitted Disclosure Statement.* The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO or Federal Official Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

___(3) *Certificate of Monetary Exemption.* The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

___ (4) *Certificate of Interim Exemption.* The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under paragraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. Cost Accounting Standards--Eligibility for Modified Contract Coverage

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

___ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime

contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with paragraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ Yes

☐ No

(End of provision)

52.230-7 Proposal Disclosure Cost Accounting Practice Changes (Apr 2005)

04/11/2005

The offeror shall check "yes" below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes.

☐ Yes

☐ No

If the offeror checked "Yes" above, the offeror shall-

(1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and

(2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal.

(End of provision)

Section L - Instructions, Conditions, and Notices to Offerors and Respondents**Clauses By Reference**

Clause	Title	Date
52.204-6	Data Universal Numbering System (DUNS) Number (Apr 2008)	04/22/2008
52.214-35	Submission of Offers in U.S. Currency (Apr 1991)	04/01/1991
52.215-1	Instructions to Offerors--Competitive Acquisition (Jan 2004)	01/12/2004
52.215-1 Alt I	Instructions to Offerors--Competitive Acquisition (Jan 2004)- Alternate I (Oct 1997)	10/10/1997

L.1 Instructions

L.2 AMENDMENTS TO PROPOSAL (05/95)

Changes to the proposal by the Offeror shall be shown on amended pages. Changes from the original page shall be indicated by a vertical line, adjacent to the change, on the outside margin of the page. The date of the amendment should be shown on the lower left corner of the page.

L.3 COMMUNICATION CONCERNING REQUEST FOR PROPOSAL

Only the Contract Administrator or the Contracting Officer may be contacted regarding this solicitation. Communication concerning this solicitation with any other Government personnel, including contractor support personnel, is prohibited unless specifically authorized elsewhere herein. If such contact occurs, the Offeror making such contact may be excluded from award consideration.

L.4 QUESTIONS REGARDING REQUEST FOR PROPOSAL

Questions (if any) may be submitted via e-mail to Frederick Washington (WashingtonFJ@state.gov) on **August 25, 2009** by 12 noon EST, to ensure a timely response. All questions, if any, will be compiled into one document by DOS; and answers will be returned via e-mail.

L.5 DELIVERY OF PROPOSAL

Proposal shall be submitted to the location set forth below not later than 12:00 p.m.

Eastern Standard Time on **September 10, 2009**. Hand carried proposals and proposals delivered by express mail (e.g., Federal Express) will be accepted Monday thru Friday, except on Federal Holidays.

Hand Delivery & Express Mail Address:
U.S. Department of State
Office of the Inspector General
Attn: Frederick Washington

1700 N Moore Street, Suite 840
Arlington, VA 22209

U.S. Post Office Delivery Address:
U.S. Department of State
Office of Acquisition Management, SA-6
Attn: Frederick Washington, A/LM/AQM/DAB
P.O. Box 9115, Rosslyn Station
Arlington, VA 22219

(2) Offeror shall provide an original and three copies of their technical and one copy price proposal. A copy of the proposal on a disk in word format and paragraphs B.7 through B.9 in excel format. The offeror shall submit the following pricing information in a physically separate volume. The offeror shall include no pricing information in its technical proposal. Proposal shall be marked with RFP no. **SAQMMA-09-R-0189**. A cover letter signed by the company representative may accompany the proposal to set forth any information that the offeror wishes to bring to the Government's attention.

L.6 PRICE PROPOSAL

If the offeror's labor categories differ from the Government's labor categories, then the offeror shall provide a matrix to correlate the categories. All proposed skill levels shall be provided in the offerors cost proposal for the base year and option years with a complete breakdown including fringe benefits, G&A, overhead and profit of labor hours and categories.

L.7 PROPOSAL PREPARATION COST

This solicitation does not commit the Government to pay any costs incurred in the submission of any proposal or in making necessary studies for the preparation thereof. The solicitation does not commit the Government to procure or contract for said services. The contracting officer is the only individual who can commit the Government to the expenditure of public funds in connection with the proposed procurement. The Government reserves the right to make contract award without holding discussions.

L.8 FINAL PROPOSAL REVISION (FPR)

DoS reserves the right to conduct oral discussions with the Offeror during the evaluation of proposals. The Department of State reserves the right to conduct a FPR evaluation process, if deemed necessary. If a FPR process is engaged, instructions will be communicated to the offeror. However, the Government reserves the right to make contract award without holding discussions and/or requesting final proposal revisions.

L.9 PROPOSAL PREPARATION INSTRUCTIONS.

L.9.1 General. The Government will not pay any offeror for preparation of a proposal. Offerors are expected to examine the entire solicitation document. Failure to do so will be at the offeror's own risk. The proposal

must consist of the following physically separate volumes listed below:

Volume 1 - Business Administrative Proposal

Volume 2 - Technical Proposal

Volume 3 - Price Proposal

Each of the volumes must be separate and complete in itself, so that each volume may be evaluated concurrently and independently.

L.9.2 Contents of Each Volume. The contents of the proposal volumes cited above shall be as follows:

L.9.2.1 Business/Administrative Proposal (Volume 1). The following items from the solicitation must be completed and submitted as part of Volume1:

1. The Government will not pay any offeror for preparation of a proposal. The offerors are required to submit their proposals in the following format:

The proposal must be submitted in three physically separate volumes and where applicable as stated below, the tabs within a volume must be clearly marked.

Volume I - Standard Form of Contract, Other Contractual & Administrative Data

This volume of the proposal shall contain the following:

Tab (a) SF 33, (signed by the offeror in block 17. The offeror shall complete blocks 13 through 18 as applicable. Erasures or other changes must be initialed by the individual signing the offer. If the SF 33 is signed by an agent of the offeror, evidence has to be submitted with the SF 33 of his/her authority to enter into a contract for the offeror.

Tab (b) Entire Section K, Representations and Certifications of the solicitation completed and signed where applicable by the offeror. If the offeror takes exception(s) to any part(s) of the specification, a description of the exception must be included. Each description shall be prefaced by the word "EXCEPTION", and provide an explanation of the exception and its proposed alternative.

Tab (c) Offeror's exceptions to and other comments about the solicitation. The offeror shall submit a statement of compliance with the specifications.

Tab (d) Offeror's place of business, including street address and the name and address of the owner and operator of facilities other than the offeror's when it is reasonably expected that such facilities will be used in the performance of the contract.

Tab (f) Information by the offeror to assist the Government in determining whether or not the offeror has the necessary financial capacity, working capital and other resources to perform the contract.

Volume II - Technical Proposal

To facilitate proposal evaluation, the offeror shall submit one (1) original and three (3) copies of their technical proposal as Volume II. These volumes must be clearly marked as "Technical Proposal" and must not contain any price information in order that the technical proposal's evaluation may be accomplished strictly on the merit of the material submitted.

The overall contents of the technical proposal shall be keyed to the following general requirements:

The proposal should not simply repeat or paraphrase the Statement of Work/Specification of the solicitation. A comprehensive technical proposal as required by this solicitation will provide a basis for sound evaluation by the Department of State (DOS). The information provided shall be concise, factual and complete.

The proposal should present the capabilities of your firm and personnel who are to be assigned to the work. The information submitted needs to be complete and detailed, spelling out clearly the relevant specialized professional competence that the firm and the individuals possess, its academic and training background, representative accomplishments, and work experience pertinent to the proposal. Site visits may be conducted to substantiate information set forth in offeror's proposal with respect to representations made, whether such representations are of a technical or non-technical nature.

This volume II, Technical Proposal must be submitted in the following stated distinct tabs which correspond to the technical evaluation factors listed in Section M.

Tab (a) – Technical/Management Solutions/Approach

The Government will evaluate the offeror's technical and management approach/solution for its quality and evidence of the extent to which it will achieve the goals and objectives of the FOIA/PA Program. This will involve an assessment of the offeror's technical and management capabilities and proposed solutions.

Evidence of quality of the technical and management approach/solution includes the following:

- Demonstrate knowledge of general principles of program management and administration, systems analysis and design, and management information.
- Demonstrate experience with FOIA/PA case processing, and research and information analysis.
- Approach, techniques, technologies and solutions that provide for the maximum return on investment while minimizing performance risk (technical, schedule, and cost)
- Solutions that demonstrate significant relevance to program goals, objectives, environment and constraints
- Solutions that incorporate Industry best practices and demonstrate innovation and forward thinking strategies
- Innovations that would produce improved operational effectiveness and efficiency and cost-savings
- Demonstrated technical expertise and capabilities beyond staffing support
- Quality Control Plan that provides assurance for performance quality and accountability; ensure A/GIS/IPS's expected results are achieved; and minimize the potential for disruption to schedule, increased cost, poor

performance, the need for increased government oversight, and the likelihood of unsuccessful TO performance.

Deliveries/Deliverables. The offeror's proposed concurrence with the deliveries and deliverables set forth in Section 7.1 will be evaluated. If the offeror proposes additional deliverables/plans/reports, the applicability and usefulness of these, as well as risk to the program, will be evaluated

Tab (b)-Key Personnel and Resumes.

The Government will evaluate the offeror's proposed personnel resources. This will involve evaluation of the desired qualifications of all key personnel resumes submitted in the proposal to assess their competency, experience, and professional certifications in similar operating environment as the Department of State and their ability to perform the requirements of the award. The offeror's Staffing Plan will be evaluated for its thoroughness and applicability to the functional tasks, subtasks, and elements.

Tab (c)-Past Performance

The Government will evaluate the offeror's past performance (and that of its proposed subcontractors) to determine the extent to which the offeror has substantiated experience in performing the required work and how its past and present performance validates expected performance and customer satisfaction. The offeror shall provide two (2) Past Performance Profiles that are directly relevant to the required effort and are of similar size (dollar value), scope (same services) and complexity (degree of difficulty). If subcontractors are proposed, at least one of the two required Past Performance Profiles shall be for services performed by the prime offeror. **The offeror shall only cite experiences that have occurred for Federal government customers within the past 36 months prior to the issuance of this RFP.** The offeror shall provide required information using the Past Performance Profile template provided below.

The past performance evaluation will examine the offeror's Past Performance Profiles on similar efforts. **The Government may share a copy of the Past Performance Profile with the referenced customer to validate the offeror's claim. To facilitate the evaluation of past performance, the offeror shall ensure the accuracy of the information furnished for references (names, addresses, and phone numbers). Failure to provide accurate or complete reference information will have a negative impact on the evaluation of the offeror's proposal and may render it unacceptable.** The evaluation will focus on the size (dollar value), scope (same service) and complexity (degree of difficulty) of the efforts, the performance measures applied, and the actual results achieved against those measures.

For each Past Performance Profile, the offeror shall also send a Past Performance Survey [Refer to Attachment I, Past Performance Survey] to the respective references to fill-out. The Past Performance Survey shall be returned by the respective references (not the offeror) via a government email address directly to Frederick Washington, Administrative Contracting Officer, at WashingtonFJ@state.gov, not later than 12:00 p.m. Eastern Time (in effect at the time proposals are due) on Thursday, September 10, 2009. The offeror is highly encouraged to ensure that its Past Performance Surveys are returned by the references on time. The Department will not follow up with references in the Profiles to prompt them to return the Surveys. Past Performance Surveys received late will not be evaluated and will affect the offeror's rating. Also, offerors are advised to inform their references not to return the Past Performance Surveys using Entrust. The Department cannot guarantee that these emails can be opened and will not follow up with the offeror or the references to ensure that the Surveys are resubmitted. Past Performance Surveys shall not be returned with the offeror's proposal. This includes partially completed (Part I).

The Government will evaluate Past Performance Surveys completed by the offeror's references and assess the relative performance risks associated with the offeror. Performance risks are those associated with an offeror's likelihood of success in performing the requirements as indicated by that offeror's record of past performance that is indicated in the Past Performance Surveys. The Government will focus on considerations that are covered by the Surveys, such as the offeror's record of performing according to the specifications, including standards of good workmanship; the offeror's record of budgeting and controlling costs; the offeror's adherence to contract schedules, including the administrative aspects of performance; the offeror's reputation for reasonable and cooperative behavior and commitment to customer satisfaction; and, generally, the offeror's business-like concern for the interest of the customer. The Government will consider the general trends in the offeror's performance.

The Government may consider in the evaluation information additional to that which the offeror provides, including information obtained from other sources, such as past and present customers, cognizant contract administration offices, other Government agencies, and others who may have useful information. **The Government reserves the right to interview the clients identified by the offeror in the Past Performance Profiles, the references submitting the Past Performance Surveys, and other clients of whom the Department is aware.**

The Government will consider all available information and give it such weight as it deems appropriate. Favorable and unfavorable references for an offeror will not be averaged. One unfavorable reference, if deemed by the Government to be reliable and relevant to performance of the solicited services, may be the basis for a negative evaluation notwithstanding other more positive information. Conversely, a reliable and relevant favorable reference may be given substantial consideration in a positive evaluation.

See Past Performance Survey as Attachment B in Section J.

L.10 Business Management Proposal

Your Business Management Proposal should set forth in detail your management structure as it relates to performance of services described in the Schedule. **Your Business Management Proposal must be included with Volume III and shall be completely separate from your Technical Proposal** and shall consist of completing those items of the Business Management Questionnaire set forth at Section L.11.

Full information regarding each item shall be furnished in sufficient detail to allow a full and complete business evaluation. If the question is not applicable or the answer is none, it should be so annotated. Failure to furnish full and complete information may result in an inability, on the part of the CO, to arrive at an affirmative determination of responsibility.

L.11 BUSINESS MANAGEMENT QUESTIONNAIRE (Applicable to Commercial and Nonprofit Organizations) – See Attachment D in Section J.

(a) This solicitation is part of a streamlined competition under Office of Management and Budget Circular No. A-76 (Revised), Performance of Commercial Activities, dated May 29, 2003 (hereafter the Circular), to determine whether to accomplish the specified work under contract or by Government performance.

(b) The Government will evaluate the cost of private sector and Agency or public reimbursable performance, as provided in this solicitation and the Circular.

(c) A performance decision resulting from this streamlined competition will be publicly announced in accordance with the Circular. If the performance decision favors private sector performance, the Contracting Officer shall either award a contract or issue a competitive solicitation for private sector offers. If the performance decision favors Agency or public reimbursable performance, the Agency shall establish, respectively, either a letter of obligation or a fee-for-service agreement, as those terms are defined in the Circular.

(End of provision)

52.214-34	Submission of Offers in the English Language (Apr 1991)	04/01/1991
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Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(End of provision)

52.215-20	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (Oct 1997)	10/01/1997
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(a) Exceptions from cost or pricing data.

(1) In lieu of submitting cost or pricing data, offerors may submit a written request for exception by submitting the information described in the following paragraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable.

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Commercial item exception.* For a commercial item exception, the offeror shall submit, at a minimum, information on prices at which the same item or similar items have previously been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include-

(A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), *e.g.*, wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities;

(B) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market;

(C) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the offeror's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for cost or pricing data.* If the offeror is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The offeror shall prepare and submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(End of provision)

52.216-1 Type of Contract (Apr 1984) 04/01/1984

The Government contemplates award of a [Contracting Officer insert specific type of contract] contract resulting from this solicitation.

(End of provision)

52.216-27 Single or Multiple Awards (Oct 1995) 10/01/1995

The Government may elect to award a single delivery order contract or task order contract or to award multiple delivery order contracts or task order contracts for the same or similar supplies or services to two or more sources under this solicitation.

(End of provision)

52.233-2 Service of Protest (Sept 2006) 09/01/2006

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from [Contracting Officer designate the official or location where a protest may be served on the Contracting Officer.] .

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

52.252-1 Solicitation Provisions Incorporated by Reference (Feb 1998) 02/01/1998

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

(End of provision)

Section M - Evaluation Factors for Award

M.1 Evaluation Factors

M.1.1 BASIS FOR AWARD

The Government contemplates the award of the contract to the responsible offeror whose offer conforms to the requirements of the RFP and is evaluated as being the most advantageous to the Government, cost or price and other factors considered.

For this requirement, technical merit is more important than cost or price. Award will not be automatically determined by numerical calculation or formula relationship between cost or price and technical merit. As technical merit of the offerors' proposals becomes more equal, the evaluated cost or price may become the determining factor. The Contracting Officer shall determine what trade-off between technical merit and cost or price promises the greatest value to the Government, cost or price and other factors considered. The Department reserves the right to make award without discussions. Discussions, if held, will be in the form of written questions or face-to-face, to which the offerors will be required to respond. The Department may not hold discussions with all offerors.

M.2 EVALUATION AND AWARD - NEGOTIATED

(a) Award shall be made to that offeror whose proposal, conforming to this solicitation, is determined to be most advantageous to the Government, cost or price and other factors considered. Other factors include:

(1) Other cost or price-related factors identified in this solicitation.

(2) The offeror's responsibility for award, as defined in FAR 9.104-1 including any special responsibility criteria identified in Section L of this solicitation.

(3) The offeror's technical evaluation and score resulting from application of the evaluation factors in paragraph M-4, Technical Evaluation Factors of this solicitation.

(4) In determining which proposal offers the greatest value or advantage to the Government, overall technical merit will be considered more important than price or cost. Between acceptable proposals with a significant difference in technical rating, a determination will be made as to whether the additional technical merit or benefits reflected by a higher priced proposal warrants payment of the additional price or cost.

M.3 SUBJECTIVE TECHNICAL SCORING

Subjective technical scoring will be in accordance with numerical values assigned to each factor and sub-factor. Neither the factors nor the sub-factors are listed in order of importance. The maximum obtainable numerical points which will be afforded for each factor or sub-factor are shown.

In evaluating and scoring technical proposals, the Government, among other things, will give due consideration to the following evaluative elements and questions. Offerors are requested to assure that their technical proposals reflect the necessary data and/or information in response to the evaluation elements and questions. The data or information delineated in the below elements and questions, as a minimum, is considered to be essential in the Government's evaluation and scoring of the technical proposals. Omission of any of the data or information, as delineated in the below elements and questions, from proposals may be cause for the Government to score the proposal as unacceptable. Total available score for evaluation of the technical proposal is **350**.

M.4 TECHNICAL EVALUATION FACTORS (05/95)

Proposals will be evaluated based on the following technical evaluation factors.

Factor A – Technical/Management Solutions/ Approach

Factor B – Key Personnel and Resumes

Factor C – Past Performance

FACTOR A – Technical/Management Solutions/ Approach

TOTAL MAXIMUM

FACTOR SCORE: 200

The Government will evaluate the offeror's technical and management approach/solution for its quality and evidence of the extent to which it will achieve the goals and objectives of the Privacy Program. This will involve an assessment of the offeror's technical and management capabilities and proposed solutions.

Evidence of quality of the technical and management approach/solution includes the following:

Subfactor A-1: Demonstrate knowledge of general principles of program management and administration, systems analysis and design, and management information.

(Maximum score: 25)

Subfactor A-2: Demonstrate experience with FOIA/PA case processing, and research and information analysis.

(Maximum score: 25)

Subfactor A-3: Approach, techniques, technologies and solution that provide for the maximum return on investment while minimizing performance risk (technical, schedule, and cost).

(Maximum score: 25)

Subfactor A-3: Solutions that demonstrate significant relevance to program goals, objectives, environment and constraints.

(Maximum score: 25)

Subfactor A-5: Solutions that incorporate Industry best practices and innovation and forward thinking strategies.

(Maximum score: 25)

Subfactor A-6: Innovations that would produce improved operational effectiveness and efficiency and cost savings.

(Maximum score: 25)

Subfactor A-7: Demonstrated technical expertise and capabilities beyond staffing support.

(Maximum score: 25)

Subfactor A-8: Quality Control Plan that provides assurance for performance quality and accountability; ensure A/GIS/IPS's expected results are achieved; and minimize the potential for disruption to schedule, increased cost, poor performance, the need for increased government oversight, and the likelihood of unsuccessful contract performance.

(Maximum score: 25)

Deliveries/Deliverables. The offeror's proposed concurrence with the deliveries and deliverables set forth in Section 7.1 will be evaluated. If the offeror proposes additional deliverables/plans/reports, the applicability and usefulness of these, as well as risk to the program, will be evaluated.

FACTOR B – Key Personnel and Resumes TOTAL MAXIMUM FACTOR SCORE: 100

Under this factor the Department of State will evaluate the offeror's proposed key personnel and past experience in furnishing services that are comparable to that described in this solicitation. The Department of State considers the services comparable if the functions, responsibilities, and control exercised by the proposed key personnel were at least essentially those required under this solicitation.

The information presented in the offeror's written proposal, together with information from any other sources available to the Government, will provide the primary input for evaluation of this factor. The Government reserves the right to verify the specifics of prior contracts described by the offeror in the proposal.

Subfactor B-1: The Government will evaluate the offeror's proposed personnel resources. This will involve evaluation of the desired qualifications of all key personnel resumes submitted in the proposal to assess their competency, experience, and professional certifications in a similar operating environment as the Department of State and their ability to perform the requirements of the award.

(Maximum score: 50)

Subfactor B-2: The offeror's Staffing Plan will be evaluated for its thoroughness and applicability to the functional tasks, subtasks, and elements.

(Maximum score: 50)

FACTOR C – Past Performance

TOTAL MAXIMUM FACTOR SCORE: 50

The Government will evaluate Past Performance Surveys completed by the offeror's references, and assess the relative performance risks associated with the offeror. Performance risks are those associated with an offeror's likelihood of success in performing the requirements as indicated by that offeror's record of past performance that is indicated in the Past Performance Surveys. The Government will focus on considerations that are covered by the Surveys, such as:

Subfactor C-1: The offeror's record of performing according to the specifications, including standards of good workmanship.

(Maximum score: 10)

Subfactor C-2: The offeror's record of budgeting and controlling costs.

(Maximum score: 10)

Subfactor C-3: The offeror's adherence to contract schedules, including the administrative aspects of performance.

(Maximum score: 10)

Subfactor C-4: The offeror's reputation for reasonable and cooperative behavior and commitment to customer satisfaction.

(Maximum score: 10)

Subfactor C-5: The offeror's business-like concern for the interest of the customer.

(Maximum score: 10)

If an offeror lacks a record of relevant past performance, it will receive a neutral past performance evaluation.

M.5 EVALUATION OF PRICE

A price analysis is anticipated to be performed to include examination of the prices offered for the base and all option years, the range of prices proposed by offerors, the experience of the competing offerors in doing the work, and the exceptions taken by any offeror to the specifications, delivery schedule or other terms of the Request for Proposal to determine if the negotiated price is fair and reasonable. The Government's determination of price reasonableness will be based on the validation, verification, and analysis of the composition of each loaded price. Price will receive less consideration than technical merit in the award of this contract.

M.6 PROMPT PAYMENT DISCOUNTS

Any prompt-payment discounts offered will not be evaluated, but may be taken as offered.

M.7 NEGOTIATIONS AND FINAL PRICE REVISION (FPR)/AWARD WITHOUT DISCUSSIONS

The Government may conduct negotiations with each offeror within the competitive range, followed by a request for Final Proposal Revision (FAR 15.307(b)). The competitive range shall be determined on the bases of price and technical evaluation of the factors stated in this solicitation, and shall include all proposals that have a reasonable chance of being selected for award. **HOWEVER, OFFERORS ARE CAUTIONED TO SUBMIT THEIR PRICING PROPOSAL ON THE MOST FAVORABLE BASIS, SINCE THE GOVERNMENT RESERVES THE RIGHT TO MAKE AN AWARD WITHOUT FURTHER NEGOTIATION OR DISCUSSION IN ACCORDANCE WITH FAR SUBPART 15.306(a)(3).**

52.217-5 Evaluation of Options (July 1990)

07/01/1990

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of provision)